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UNITED STATES OF AMERICA,)
Plaintiff)
)
vs.) No. 1-19-CR-10080
)
GAMAL ABDELAZIZ and JOHN)
WILSON,)
Defendants.)
)
)

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P R O C E E D I N G S

THE CLERK: Court is now in session.

THE COURT: Good morning, counsel. Before we continue the process of individual voir dire, I would like to deal with the government's motion to strike Juror No. 18 for cause. They filed a motion overnight. I assume counsel for defendants have had a chance to review that, Mr. Kelly, Mr. Kendall.

MR. KELLY: I've reviewed it now, your Honor.

THE COURT: Do you wish to be heard in opposition?

09:19 10 MR. KELLY: Well, your Honor, here's the issue as I see it. I think the government's right about the fact that if it's a crime punishable by more than a year, it's a felony, even though the state calls them misdemeanors up until two and a half years.

15 THE COURT: Isn't it two OUIs, misdemeanors, and the third a felony?

17 MR. KELLY: I think if it's over a year, if he's convicted of a crime over a year in the federal system, it counts however the state qualifies it. The second part of the analysis is has his civil rights been restored. I haven't thought about that issue in a long time. There's really only three civil rights at issue. In Massachusetts, you never lose your right to vote. The second right is you can't run for public office. That only applies when you're in jail. The third civil right is, as I recall, is the right to serve on a

1 jury. Then your rights are restored after 7 years. The
2 conviction they're bringing to everyone's attention is less
3 than 7 years. What I don't recall is whether or not the
4 restoration of rights, which is a complicated process, has to
5 be individual or general application for this rule. I don't
6 have a final thought on whether his rights have been restored.
7 He was certainly very candid about it when asked. He was
8 certainly on the jury pool process, so I assume when they
9 screen these people, they've gone through this analysis and put
09:20 10 them on the pool. He was on the pool. He was, by all
11 accounts, very honest and he did not appear to be hiding
12 anything when questioned. I would say based upon that, I would
13 not agree to him being kicked off. Again, I don't know the
14 full restoration process.

15 THE COURT: Mr. Kendall.

16 MR. KENDALL: Your Honor, I know very little about
17 this topic, this issue of eligibility and whatever. We've
18 asked somebody to research it in the office. I'd ask if we can
19 get to you back at the break or in an hour's time. I want to
09:21 20 look at it and understand how it works. I'm sure you know
21 better than I do.

22 THE COURT: I don't. Mr. Frank.

23 MR. FRANK: Your Honor, both statutes, we think, are
24 quite clear. They don't refer to the term "felony". They
25 refer to crimes punishable under state or federal law by

1 imprisonment for more than 1 year. The statute under which the
2 potential juror was convicted in August of 2019 on its face is
3 punishable by imprisonment for up to two and a half years.
4 Those are the terms that the statute uses. With respect to the
5 restoration of civil rights, I agree with Mr. Kelly that it is,
6 under Judge Gertner's decision, 7 years in the standard period.
7 This potential juror was convicted in August of 2019. His
8 Probation ran until August of just August of 2021. So there's
9 no possibility that his civil rights have been restored.

09:22 10 THE COURT: He was convicted of larceny, contrary to
11 his comments on the stand?

12 MR. FRANK: His rap sheet shows that he lied on the
13 stand and he was convicted of larceny. That conviction is in
14 the same rap sheet with all the convictions that he
15 acknowledged.

16 THE COURT: I'm going to allow the motion. I'm going
17 to strike this Juror No. 18 for cause, which means that we're
18 down to 34, rather than 35. We need to get six more out of the
19 process that we're going to proceed with right now.

09:22 20 Anything else that needs to come to my attention
21 before we proceed with the process of individual voir dire?

22 MR. KELLY: No, your Honor.

23 MR. KENDALL: No, your Honor.

24 THE COURT: Let us call starting with No. 105, I
25 believe it is.

1 (Prospective juror enters.)

2 Good morning, Mr. Xanthopoulos. Is that how you
3 pronounce your name?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Mr. Xanthopoulos, you're reminded that you
6 remain under oath. You may remove your mask if want to, but
7 you don't have to.

8 In response to question 23 on the questionnaire, you
9 made a comment that you thought that if a defendant is guilty,
09:23 10 they must prove they're innocent, especially if there is
11 evidence. Of course, that's not the law. Do you know that the
12 law is different than what you said?

13 PROSPECTIVE JUROR: Could you repeat the question? I
14 may have misread it then if that's the case.

15 THE COURT: The answer to question No. 23 that you
16 gave, you said that if a defendant is guilty, they must prove
17 that they're innocent, especially if there's evidence.

18 PROSPECTIVE JUROR: Then I definitely misread it. I
19 thought it said if they are not guilty. The question is if
09:24 20 they are guilty?

21 THE COURT: No. The question is the burden of proof
22 is always on the government to prove beyond a reasonable doubt
23 that the defendant charged is guilty. The defendant has no
24 obligation to prove anything. That's contrary to the law.
25 Would you be able to accept that instruction from the Court,

1 not withstanding your opinion?

2 PROSPECTIVE JUROR: I'm a little confused now. Can
3 you please repeat the question.

4 THE COURT: Let's see if I can give you the exact
5 question that was asked. "The prosecution has the burden of
6 proving the defendant is guilty beyond a reasonable doubt. A
7 defendant does not have to prove that he is innocent. Do you
8 disagree in any way with this principal?"

9 I believe your answer was "Yes. If a defendant is
09:25 10 guilty, they must prove that they are innocent, especially if
11 there is evidence."

12 PROSPECTIVE JUROR: I must have misread it. I guess
13 my answer should be changed to no then.

14 THE COURT: That's a crucial issue, of course, in any
15 criminal case, notwithstanding the answer, and having answered
16 all the questions of the questionnaire, do you have any doubt
17 that if you are chosen to sit as a juror on this case, you
18 could be fair and impartial?

19 PROSPECTIVE JUROR: I would definitely be fair and
09:26 20 impartial.

21 THE COURT: Can you decide this case based solely on
22 the evidence that is presented in this courtroom and not based
23 upon any other information that you have from elsewhere?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: What about your comments to 43 that

1 "wealthy people sometimes believe that money can be their way
2 out when the evidence proves guilt"? I'm not sure I understand
3 that. What do you mean by that?

4 PROSPECTIVE JUROR: I kind of meant most likely if
5 there are wealthy people involved in the case they'd be able to
6 most likely get good lawyers or better lawyers than, say,
7 someone who doesn't have enough money.

8 THE COURT: Do you have a bias against wealthy people?

9 PROSPECTIVE JUROR: I guess in that regard maybe a
09:26 10 slight bias, yes.

11 THE COURT: To be a fair and impartial juror you've
12 got to enter this case without any bias toward anybody. Can
13 you do that?

14 PROSPECTIVE JUROR: It would have to depend on the
15 evidence in the case.

16 THE COURT: Let's see if counsel have any questions
17 for you. Mr. Kelly.

18 MR. KELLY: Good morning. I represent Mr. Aziz here.
19 If the evidence in the case were that the defendants were
09:27 20 wealthy and they did have good lawyers, you would hold that
21 against them?

22 PROSPECTIVE JUROR: If the evidence proves that the
23 defendant is guilty, then I would have to vote in saying that
24 he was guilty.

25 MR. KELLY: What I'm getting at is your concern is,

1 generally, in society, wealthy people have advantages that
2 other people don't.

3 PROSPECTIVE JUROR: Correct. Most of the time, yes.

4 MR. KELLY: That's your firmly held belief?

5 PROSPECTIVE JUROR: Yes.

6 MR. KELLY: In fact, when you came here today, your
7 view was that if a defendant is guilty, they must prove they're
8 innocent. You wrote that, right?

9 PROSPECTIVE JUROR: Correct, but like I stated
09:28 10 earlier, I misread the question.

11 MR. KELLY: What you wrote is "if the defendant is
12 guilty, they must prove they're innocent, especially if there's
13 evidence." What do you mean by that? If the government puts
14 on some evidence, the defense should put some on too?

15 PROSPECTIVE JUROR: Can you repeat that.

16 MR. KELLY: You wrote, "If the defendants' guilty,
17 they must prove they're innocent, especially if there is
18 evidence." Do you mean if the government puts on evidence that
19 they're guilty, the defense should put on evidence that they're
09:28 20 not guilty?

21 PROSPECTIVE JUROR: Correct.

22 MR. KELLY: That's it.

23 THE COURT: Mr. Kendall.

24 MR. KENDALL: Good morning. My name's Mike Kendall.
25 I represent John Wilson. I'm sorry to go back to the same

1 question. I hope you appreciate that's what we're supposed to
2 do.

3 That question toward the end, you were concerned about
4 wealthy people having certain advantages. I think you
5 referenced they get better lawyers than average.

6 PROSPECTIVE JUROR: Correct.

7 MR. KENDALL: Do you think that gives them a bit of an
8 edge or bit of advantage in a case like this?

9 PROSPECTIVE JUROR: Generally, the way I viewed it,
09:29 10 more expensive lawyers tend to be better lawyers. That may not
11 be the case but that's what I was exposed to.

12 MR. KENDALL: I'm glad to hear that. Do you think
13 that gives them some type of edge in the courtroom, sort of an
14 advantage that other people don't have? It's not the same
15 trial for all people because of that.

16 PROSPECTIVE JUROR: I guess most of the time, yes. It
17 depends on which lawyer they hire.

18 MR. KENDALL: What do you mean by that?

19 PROSPECTIVE JUROR: Like I said, it depends on the
09:29 20 lawyer. You could get a really expensive lawyer but they could
21 be poor at their job.

22 MR. KENDALL: If they get a good lawyer that's good at
23 their job, they have an edge that others don't have in the
24 legal system.

25 PROSPECTIVE JUROR: Yes.

1 MR. KENDALL: I appreciate your candor.

2 THE COURT: Miss Kearney.

3 MS. KEARNEY: Good morning. Following up on some of
4 the questions you've been asked, notwithstanding your views on
5 the types of lawyers that a defendant could afford, would you
6 be able to put aside those views and just judge based on the
7 evidence that's presented to you in court?

8 PROSPECTIVE JUROR: Yes.

9 MS. KEARNEY: If the judge instructed you that it's
09:30 10 the government's burden of proof in this case, would you be
11 able to follow that instruction?

12 PROSPECTIVE JUROR: Yes.

13 MS. KEARNEY: Thank you.

14 THE COURT: Thank you, Mr. Xanthopoulos. You may be
15 put in reserve. You will go with the jury coordinator for the
16 time being. You may be called back for further empanelment
17 information. In the meantime, of course, you're not to do any
18 research about this case on the internet or anything like that.
19 You understand why.

09:31 20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Thank you.

22 (Prospective juror exits.)

23 Mr. Kelly?

24 MR. KELLY: We're going to move to strike this juror
25 for cause. He just testified under oath in court that he has a

1 bias against wealthy people. That's his firmly held belief.
2 He's certainly entitled to that belief, but given the facts of
3 this case, he will be biased against our client. He doesn't
4 like them hiring lawyers that, in his view, give him an undue
5 edge.

6 He had difficulty even responding to the Court's
7 questions initially. I think that's another basis that
8 concerns me, that he can't even follow the instructions of what
9 it's going to be. After you instructed him, he still answered
09:32 10 wrong. He can't follow instructions.

11 More important for my client is he can be biased
12 against him based upon his answers, based upon his written
13 answers too that he had time to prepare when he was filling out
14 the questionnaire. When he came here, he repeated it under
15 oath. We respectfully suggest, unfortunately, he's biased
16 against my client and he should be struck for cause.

17 THE COURT: Mr. Kendall.

18 MR. KENDALL: To add slightly to that, I obviously
19 adopt his position, he's a respectful young man. He clearly
09:32 20 respects the Court and what the Court says to him. He clearly
21 said that he has an ingrained bias. As much as he has respect
22 for the Court's instructions, I don't think you're going to
23 take it into the jury room. He said rich people have an edge
24 in the courtroom because they get better lawyers. I suggest,
25 your Honor, given how fraught this case is with those issues, I

1 think we have to just acknowledge that this juror's not the
2 appropriate person for this case.

3 THE COURT: Miss Kearney.

4 MS. KEARNEY: The prospective juror acknowledged he
5 misunderstood the question. When it was explained to him, he
6 did say that he could put his views aside on both whether
7 wealthy people can afford better lawyers, although he
8 acknowledged sometimes that's not all the case. He also said
9 he'd be able to follow your instructions. Given that, we
09:33 10 oppose.

11 MR. KELLY: Your Honor, I think I missed the most
12 important point. He said under oath he thinks the defendant
13 has to put on evidence. If the government puts on evidence of
14 guilt, the defendant has to put on evidence of innocence.
15 That's obviously not the law.

16 THE COURT: I've heard enough. I'm going to excuse
17 this juror, contrary to my earlier rulings yesterday, and
18 sustain the defendants' objection as to Mr. Xanthopoulos, who
19 will be used.

09:34 20 (Prospective juror enters.)

21 Good morning, Miss Reyes. Please be seated. You're
22 reminded you are still under oath. You may remove your mask,
23 but you don't have to.

24 Miss Reyes, would serving on this jury for 4 weeks
25 cause you financial hardship?

1 (Witness nods head.)

2 THE COURT: You're going to have to answer audibly so
3 the court reporter can take down your answers.

4 PROSPECTIVE JUROR: No.

5 THE COURT: With respect to the answers you gave, I
6 would just ask a general question. Having answered all of the
7 questions on the questionnaire, do you have any doubt that if
8 you are chosen to be a juror on this case, you could be fair
9 and impartial.

09:35 10 PROSPECTIVE JUROR: Sorry. What was the question?

11 THE COURT: Do you have any doubt as to whether you
12 can be fair and impartial?

13 PROSPECTIVE JUROR: No doubt.

14 THE COURT: Can you decide this case based solely on
15 the evidence that comes in this courtroom and not based upon
16 any other information that you may have about the case?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Mr. Kelly, any questions?

19 MR. KELLY: Briefly. Good morning. I'm Brian Kelly.
09:35 20 I represent Mr. Aziz here. With respect to this case, there
21 might be some evidence about college sports. Are you a college
22 sports fan at all?

23 PROSPECTIVE JUROR: No.

24 MR. KELLY: That's it.

25 THE COURT: Mr. Kendall.

1 MR. KENDALL: Thank you for coming in, but no
2 questions.

3 THE COURT: Miss Kearney.

4 MS. KEARNEY: Good morning, Miss Reyes. I see from
5 your questionnaire you previously served on a jury. Is there
6 anything about that experience that would affect your ability
7 to be fair and impartial in this case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Thank you, Miss Reyes. We will reserve
09:36 10 you. Putting you into reserve is what we call it. You'll
11 report to Mr. McAlear here. You may be called for further
12 investigation as to whether or not you're going to serve as a
13 juror in this case. In the meantime, please do not do any
14 research on that subject. Of course, that would be
15 inappropriate because you're going to decide this case, if you
16 are chosen to be a juror, solely on the evidence that comes
17 into this courtroom. Okay? Thank you.

18 PROSPECTIVE JUROR: Thank you.

19 THE COURT: Good morning, Miss Dorazio. Please have a
09:37 20 seat. You're reminded that you remain under oath. You may
21 remove your mask if you want to, but you don't have to.

22 PROSPECTIVE JUROR: I want to.

23 THE COURT: Miss Dorazio, you informed us that you are
24 not available after October 13th, which I believe is a
25 Wednesday.

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: This trial is probably going to be over by
3 then, but I can't guarantee it.

4 PROSPECTIVE JUROR: I have a family -- excuse me. I
5 have a family reunion, with my siblings flying in to visit my
6 mother at a nursing home. She's 90. She just went in there.

7 I have to add another something to the questionnaire
8 that I forgot that might be relevant besides that.

9 THE COURT: Yes.

09:38 10 PROSPECTIVE JUROR: A friend of mine was recently
11 convicted of tax fraud. I completely forgot about that. I
12 just blocked it out completely. It might have even been a
13 federal case.

14 THE COURT: Would that in any way affect your ability
15 to be fair and impartial in this case --

16 PROSPECTIVE JUROR: No.

17 THE COURT: Wait a minute. I have to ask the
18 question. Would that affect your ability to be fair and
19 impartial in this case where one particular incident involves
09:38 20 allegations of tax fraud?

21 PROSPECTIVE JUROR: No, no. He broke the law. He has
22 to pay the price.

23 THE COURT: That would not impact your being a juror
24 in this case?

25 PROSPECTIVE JUROR: No. The only reason I'm

1 mentioning it is because I wrote a letter of reference for him
2 as a personal reference for the case. The lawyers asked me to
3 do that. So it is on record that I supported this individual
4 as a friend of mine, but it will not affect, no.

5 THE COURT: My question is whether it would affect
6 your ability to be fair and impartial in this case.

7 PROSPECTIVE JUROR: No.

8 THE COURT: We've got to go back to that October 13th
9 date. I can't guarantee this case will be over.

09:39 10 PROSPECTIVE JUROR: I know. That's what concerns me.

11 THE COURT: If you have an absolute commitment to not
12 being anywhere else other than at this reunion on the 13th,
13 14th and 15th, I'm pretty sure I can guarantee this case is
14 going to be done by the 15th, but not by the 13th.

15 PROSPECTIVE JUROR: People are flying in.

16 THE COURT: If you have a commitment that you cannot
17 break, I'm going to excuse you from this jury.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: You're excused. Thank you.

09:40 20 (Prospective juror exits.)

21 Good morning, miss Bradford. You may be seated.
22 You're reminded you are still under oath. You may remove the
23 mask, but you don't have to.

24 Miss Bradford, would serving on this jury for
25 approximately 4 weeks cause you financial hardship?

1 PROSPECTIVE JUROR: Not financial. I am a director of
2 an aquarium where I work so it would be tricky with staffing,
3 but it's possible.

4 THE COURT: Do you have other people that could
5 substitute for you for that length of time?

6 PROSPECTIVE JUROR: We could make it work if needed.

7 THE COURT: Fair enough. With respect to your answers
8 on the questionnaire, just generally, having answered all those
9 questions, do you have any doubt that if you are chosen to be a
09:41 10 juror on this case, you could be fair and impartial?

11 PROSPECTIVE JUROR: I do not have a doubt, no.

12 THE COURT: Can you decide this case based solely on
13 the evidence that comes into this courtroom and not based upon
14 any other information that you may have about the case?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Mr. Kelly, any questions?

17 MR. KELLY: Briefly. Good morning. I'm Brian Kelly.
18 I represent Mr. Aziz here. Thanks for coming in.

19 Just a quick follow-up on some of the questionnaire
09:41 20 questions. This case may involve some discussions of college
21 sports. Are you a college sports fan at all?

22 PROSPECTIVE JUROR: No.

23 MR. KELLY: There's one question indicating that you
24 played in college.

25 PROSPECTIVE JUROR: My brother did.

1 MR. KELLY: He played baseball?

2 PROSPECTIVE JUROR: He did.

3 MR. KELLY: Anything about that experience of any
4 significance to you?

5 PROSPECTIVE JUROR: No, not in particular.

6 MR. KELLY: Do you follow NCAA basketball or anything
7 like that?

8 PROSPECTIVE JUROR: No.

9 MR. KELLY: Thanks a lot.

09:42 10 THE COURT: Mr. Kendall.

11 MR. KENDALL: Yes, your Honor. A couple. Good
12 morning. I'm Mike Kendall. I represent John Wilson. I just
13 have a question about No. 39 in the questionnaire. It asks if
14 you've ever heard of any of the press coverage for what's
15 called the Varsity Blues case, and you said no. You've never
16 heard of this case?

17 PROSPECTIVE JUROR: So I did want to clarify that
18 question. So I had heard about it, I think, a couple years ago
19 when it was like the big celebrity thing, but I thought that
09:42 20 question was about this specific case, which I have not heard
21 about. I hadn't heard about the Varsity Blues buzzword or
22 anything, just the college admissions scandal in general I
23 heard about, but haven't followed closely.

24 MR. KENDALL: I appreciate you clarifying that. Did
25 you have any reaction whenever you saw any of the publicity

1 that you did see?

2 PROSPECTIVE JUROR: Just regarding the fairness of it
3 all. I went to college myself too, so for people to think that
4 they can maybe get in without a fair way in and just kind of
5 pay their way through wasn't necessarily my favorite thing to
6 hear.

7 MR. KENDALL: Do you have any strong views on that
8 topic?

9 PROSPECTIVE JUROR: Just -- I don't know. Not in
09:43 10 particular, just that I don't think bribing your way into
11 anything is really fair for the rest of the people who have to
12 kind of work their way in. That's all I really know about the
13 case.

14 MR. KENDALL: Thank you.

15 THE COURT: Miss Kearney.

16 MS. KEARNEY: Good morning, Miss Bradford. Would you
17 be able to put aside your views on what you've heard about the
18 Varsity Blues case previously and just judge this case on the
19 evidence presented at the trial?

09:43 20 PROSPECTIVE JUROR: Yes.

21 MS. KEARNEY: Would you be able to follow the judge's
22 instruction on the law?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you, Miss Bradford. I'm going to
25 put you in reserve, which means you will be held for perhaps

1 further involvement in this case. In the meantime, of course,
2 please do not do any independent research or go online. It
3 would be totally inappropriate. You understand that, right?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Thank you, Miss Bradford.

6 (Prospective juror exits.)

7 (Prospective juror enters.)

8 THE COURT: Good morning, Mr. Pitts. You may be
9 seated. You may remove your mask if you want to, but you don't
09:45 10 have to.

11 Mr. Pitts, would serving on this jury for 4 weeks
12 cause you financial hardship?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Just generally having answered all of the
15 questions on the questionnaire, do you have any doubt if you
16 were chosen to sit as a juror in this case you could be fair
17 and impartial?

18 PROSPECTIVE JUROR: Do I have any doubt? No.

19 THE COURT: Can you decide this case based solely on
09:45 20 the evidence that comes into this courtroom and not based upon
21 any information you have from elsewhere?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Mr. Kelly, any questions?

24 MR. KELLY: Just briefly. Good morning. Thanks for
25 coming in. My name is Brian Kelly. I represent Mr. Aziz.

1 This case may involve some discussion about college sports.
2 Are you a college sports fan at all?

3 PROSPECTIVE JUROR: No.

4 MR. KELLY: Only question. Thanks.

5 THE COURT: Mr. Kendall.

6 MR. KENDALL: Yes. Thank you, your Honor.

7 Good morning. My name's Mike Kendall. I represent
8 John Wilson. I just had a couple of simple questions.

9 On question 9, you described your employment. I think
09:46 10 it's a development office engineer. Can you tell us what you
11 do?

12 PROSPECTIVE JUROR: Yes. So there's an online
13 advertising website. So I do dem-ups for them, which means I
14 basically take care of maintaining the infrastructure and
15 developer tools to help the developers work on features for
16 that website.

17 MR. KENDALL: In question 39, you were asked if you
18 ever heard of the case the Varsity Blues college admissions
19 case and any of the media or anything else. You said no.
09:46 20 You've never heard of it?

21 PROSPECTIVE JUROR: I have not.

22 MR. KENDALL: The last question I wanted to ask you,
23 which was 45, you said you could abide by the rules of not
24 looking at any news coverage or media stuff about this, but you
25 prefer to not be barred from Facebook.

1 PROSPECTIVE JUROR: Yeah. I'd like to correct that.
2 Apparently, someone mentioned -- I heard it might be a high
3 profile case. I didn't understand it at the time. It makes
4 sense to not go on Facebook for this.

5 MR. KENDALL: Your mom and dad are lawyers?

6 PROSPECTIVE JUROR: Yes.

7 MR. KENDALL: What type of law practice do they have?

8 PROSPECTIVE JUROR: My dad does bankruptcy and I think
9 divorce law, and my mom is a, I don't know exactly what, but
09:47 10 she works at a mental health advocate's office but she's a
11 lawyer for them.

12 MR. KENDALL: I take it their work and growing up with
13 them as lawyers, that will have no impact on you in this case?
14 Is that fair to say?

15 PROSPECTIVE JUROR: Yeah.

16 MR. KENDALL: Thank you very much.

17 THE COURT: Miss Kearney.

18 MS. KEARNEY: Good morning, Mr. Pitts. I wanted to
19 follow-up on one of your questions. You said you didn't know
09:48 20 if you had a relative, close friend or anyone who worked for a
21 criminal defense attorney or public defender. I wanted to just
22 clarify. Is there someone that you think might but you're not
23 sure?

24 PROSPECTIVE JUROR: I don't actually know exactly -- I
25 should know what my mom does. I'm fairly certain she does not,

1 but I actually don't know.

2 MS. KEARNEY: Thank you.

3 THE COURT: Thank you, Mr. Pitts. I'm going to put
4 you in reserve, which means that you may be subject to further
5 involvement in this case. In the meantime, do not try to do
6 any independent research. That would be inappropriate, as I'm
7 sure you understand.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Thank you, Mr. Pitts.

09:48 10 (Prospective juror exits.)

11 (Prospective juror enters.)

12 THE COURT: Good morning, Miss Seger. You may be
13 seated. You're reminded you're still under oath. You may
14 remove the mask if you want to, but you don't have to.

15 Miss Seger, would serving on this jury for 4 weeks or
16 so cause you financial hardship?

17 PROSPECTIVE JUROR: No.

18 THE COURT: With respect to the answers that you gave
19 to the questions on the questionnaire, do you have any doubt
09:49 20 that if you were chosen to sit as a juror on this case you
21 could be fair and impartial?

22 PROSPECTIVE JUROR: I don't have any concerns.

23 THE COURT: You have no doubt?

24 PROSPECTIVE JUROR: None.

25 THE COURT: Can you decide this case based solely on

1 the evidence that comes into this courtroom and not based upon
2 any information you have from other sources?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Thank you.

5 Mr. Kelly, any questions?

6 MR. KELLY: Yes. Just briefly. Good morning. Brian
7 Kelly. I represent Mr. Aziz. Thank you for coming in.

8 Just to follow-up on a couple questions here, there's
9 an answer you had about the media reports. You've seen some
09:50 10 media reports in this matter.

11 PROSPECTIVE JUROR: I remember the two celebrities
12 that had similar cases. I know about the college admissions
13 scandal. I remember Lori something and the other celebrity,
14 but it was just in the news.

15 MR. KELLY: Did your review of that news cause you to
16 get any opinions about this matter?

17 PROSPECTIVE JUROR: I thought what they did was wrong.

18 MR. KELLY: Could you put that out of your mind and
19 treat this as a separate case, separate matter?

09:51 20 PROSPECTIVE JUROR: Sure.

21 MR. KELLY: Nothing you've seen in the media to date
22 would make you be unfair to the defense at all?

23 PROSPECTIVE JUROR: No. I don't remember hearing
24 about them.

25 MR. KELLY: How about sports? A lot of this case will

1 be about college sports. Are you a college sports fan at all?

2 PROSPECTIVE JUROR: UConn basketball.

3 MR. KELLY: Men's, women's? The women's is the famous
4 program.

5 PROSPECTIVE JUROR: Both.

6 MR. KELLY: Anything about that that you think would
7 affect your approach to this case?

8 PROSPECTIVE JUROR: No.

9 MR. KELLY: Did you play basketball growing up?

09:51 10 PROSPECTIVE JUROR: No.

11 MR. KELLY: Thank you.

12 THE COURT: Mr. Kendall.

13 MR. KENDALL: Thank you, your Honor.

14 MR. KELLY: Oh, I have one.

15 THE COURT: Go ahead, Mr. Kelly.

16 MR. KELLY: There's another answer you had about your
17 daughter-in-law works at the courthouse.

18 PROSPECTIVE JUROR: She's a clerkship with a judge. I
19 forget his name. He's here.

09:52 20 MR. KELLY: It's not Judge Gorton.

21 PROSPECTIVE JUROR: No.

22 THE COURT: Mr. Kendall.

23 MR. KENDALL: Yes. Good morning. My name's Mike
24 Kendall. I represent John Wilson.

25 I wanted to follow-up on a couple of things Mr. Kelly

1 asked. Your daughter-in-law is a clerk for one of the judges
2 in the courthouse.

3 PROSPECTIVE JUROR: Yes.

4 MR. KENDALL: You don't remember the judge's name?

5 PROSPECTIVE JUROR: I don't. Sorry.

6 MR. KENDALL: Could you tell us your daughter-in-law's
7 name.

8 PROSPECTIVE JUROR: Gal, G-A-L, Seger Binenbaum.

9 MR. KENDALL: Do you know anything about the
09:52 10 particular judge she works with? Is it a district court judge,
11 bankruptcy judge, appellate judge? Do you have any idea what
12 type of judge it is?

13 PROSPECTIVE JUROR: I don't.

14 MR. KENDALL: Other than a good judge.

15 PROSPECTIVE JUROR: I'm sure he is.

16 MR. KENDALL: The second thing is you mentioned you
17 had seen some of the news coverage. To be honest, I couldn't
18 hear all of the answer. If I repeat, I apologize. When you
19 saw the early coverage about the celebrities, did you have any
09:53 20 reaction to it, just your thoughts or your views of, gee, this
21 is A, or B or C?

22 PROSPECTIVE JUROR: It was wrong what they did.

23 MR. KENDALL: Why did you think it was wrong?

24 PROSPECTIVE JUROR: They paid money to get their kids
25 into a school.

1 MR. KENDALL: You think that was wrong?

2 PROSPECTIVE JUROR: From the reports, it sounded like
3 they did things. There was a rowing. I don't even remember
4 the name of the person getting onto a rowing team or something.
5 They paid to get their kids in.

6 MR. KENDALL: What is it that you think that's wrong
7 about that or what's wrong about what you read?

8 THE COURT: I don't think -- that's asking her to give
9 a legal conclusion. She doesn't have to answer that.

09:54 10 MR. KENDALL: Thank you, your Honor. Thank you very
11 much.

12 THE COURT: Miss Kearney.

13 MS. KEARNEY: Good morning, Miss Seger. Your son is
14 also a lawyer. What kind of law does he practice?

15 PROSPECTIVE JUROR: Corporate.

16 MS. KEARNEY: I also saw on your questionnaire that
17 you previously served on a jury. Was there anything about that
18 experience that might affect your ability to be fair and
19 impartial in this case?

09:54 20 PROSPECTIVE JUROR: No.

21 MS. KEARNEY: Your sister, you wrote, was a victim of
22 a crime.

23 PROSPECTIVE JUROR: Her house was broken into years
24 and years ago.

25 MS. KEARNEY: Do you feel she was treated fairly in

1 connection with the criminal justice system in that instance?

2 PROSPECTIVE JUROR: Yes.

3 MS. KEARNEY: Anything about that experience that
4 might affect your ability to be fair and impartial?

5 PROSPECTIVE JUROR: No.

6 MS. KEARNEY: Do you understand that the judge is
7 going to instruct you on what the law is and are you going to
8 be able to follow the judge's instructions?

9 PROSPECTIVE JUROR: Yes.

09:55 10 THE COURT: Thank you, Miss Seger. I'm going to hold
11 you in reserve, which means that you may have further
12 involvement in this case. You will go -- I'm sorry, Mr. Kelly.

13 MR. KELLY: Apologies.

14 THE COURT: Go ahead.

15 MR. KELLY: One last question. Does your son work at
16 mechanic carter and English?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: As I was saying, I'm going to have you in
19 the reserve pool, which means that you may have further
09:55 20 involvement, but please do not try to do any independent
21 research on this case. You understand why that would be
22 inappropriate, right?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you.

25 (Prospective juror exits.)

1 MR. KELLY: Your Honor?

2 THE COURT: Yes.

3 MR. KELLY: I think the only issue that I could
4 suggest she'd be excused for cause for her is McCarter &
5 English represent a witness in the case. I think they just
6 recently filed a motion to quash on some subpoena matter. Her
7 son works at the firm. That firm is local counsel on a
8 witness. They just filed a motion, apparently. Haven't even
9 read the motion. Her son works for the firm. I think that's
09:56 10 probably a problem.

11 THE COURT: Miss Kearney.

12 MS. KEARNEY: Her son works for the corporate
13 practice. McCarter English is local counsel. It's former AUSA
14 Glenn McKinley, who only joined the office a week ago. I doubt
15 they know each other or would come across each other.

16 MR. KELLY: I'm not suggesting they know each other.
17 I'm just suggesting her son works for McCarter English and they
18 represent a witness in this case. I think that's grounds to
19 move for cause.

09:56 20 MR. KENDALL: Your Honor, I have a separate issue.
21 Her daughter-in-law clerks for one of the judges in this
22 courthouse. This case has been broken up and spread out
23 through multiple judges in this court. I was trying to get
24 some data just so we can figure out if she works for another
25 chambers that has got one of the defendants or one of the cases

1 here. That would cause me concern if she was clerking -- she's
2 obviously not clerking for Judge Talwani because she said it
3 was a male judge, but Judge Woodlock.

4 THE COURT: Did you get the last name of the clerk?

5 MR. KENDALL: She said it. I hope we have it in the
6 transcript. If not, maybe Mr. Sharp here heard better than I
7 did.

8 MR. SHARP: It was Gal, G-a-l, Seger, S-e-g-e-r,
9 B-i-n-e-n-b-a-u-m.

09:57 10 THE COURT: Could you spell that again.

11 MR. SHARP: B-i-n-e-n-b-a-u-m. Your Honor, throughout
12 the proceedings I'm going to keep my mask on. I have a newborn
13 daughter.

14 THE COURT: That's fine. Binenbaum, can we check
15 that?

16 THE CLERK: I'll ask HR.

17 THE COURT: Does the government have a position on
18 this?

19 MS. KEARNEY: Your Honor, she indicated that it was a
09:58 20 he. We know it's not Judge Talwani, who has one of the other
21 trials in this case. The fact she didn't even know the judge's
22 name, it doesn't sound like she's discussing things with her
23 daughter-in-law.

24 THE COURT: I think this is a close call, but not an
25 absolute necessary to excuse her because her daughter-in-law --

1 MS. KEARNEY: Her daughter-in-law is clerking and her
2 son is at McCarter English on the corporate side.

3 THE COURT: I don't think it's necessary to excuse her
4 for that reason. If we can find out what judge it is that she
5 is clerking for, it may change. For now, I'm not going to
6 excuse her for cause. If there's more information gained in
7 the next few hours, I will listen to any renewed motion in that
8 regard.

9 Let's go on with the next one.

09:59 10 (Prospective juror enters.)

11 THE COURT: Good morning, Miss DaSilva. Is that how
12 you pronounce your name?

13 PROSPECTIVE JUROR: Correct.

14 THE COURT: You may be seated. You are reminded that
15 you remain under oath. You may remove your mask if you want
16 to, but you don't have to.

17 Miss DaSilva, would serving on this jury for about a
18 4-week period cause you financial hardship?

19 PROSPECTIVE JUROR: No.

09:59 20 THE COURT: You answered one question that had to do
21 with the requirement that the government prove guilt beyond a
22 reasonable doubt by saying that "the defendant is there for a
23 reason." What do you mean by that?

24 PROSPECTIVE JUROR: I mean obviously somebody found
25 something for him or her to be in the situation they're in. I

1 believe everybody should have to prove if they are innocent.

2 THE COURT: Do you understand that that's contrary to
3 the law? The law requires the government to prove its case
4 against anyone it charges with a crime beyond a reasonable
5 doubt and the defendant has no obligation to prove anything.
6 In fact, the defendant can remain entirely silent and not
7 testify and that is the law. He has a right. He or she has a
8 right to do that. So if I were to instruct you about the law,
9 could you follow that instruction, notwithstanding your
10:00 10 opinion?

11 PROSPECTIVE JUROR: Sure.

12 THE COURT: With respect generally to all of the
13 questions on the questionnaire, do you have any doubt at all
14 that if you were chosen to sit as a juror on this case you
15 could be fair and impartial?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Do you have doubt? Yes, you do have doubt
18 or you don't have any doubt?

19 PROSPECTIVE JUROR: I don't have any doubt.

10:01 20 THE COURT: Can you decide this case solely based on
21 the evidence that comes into this courtroom and not based on
22 anything else you may have heard about the case?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Kelly, any questions for this witness?

25 MR. KELLY: Yes, your Honor. Good morning. Brian

1 Kelly. I represent Mr. Aziz.

2 I want to follow-up on a couple questions here.

3 You're 40 years old?

4 PROSPECTIVE JUROR: Yes.

5 MR. KELLY: You filled this out. You did it honestly?

6 PROSPECTIVE JUROR: Yes. Honestly.

7 MR. KELLY: Best of your ability?

8 PROSPECTIVE JUROR: Yes.

9 MR. KELLY: Your view was, in fact, that the defendant
10:01 10 is there for a reason.

11 PROSPECTIVE JUROR: Yes.

12 MR. KELLY: And the reason would be he's probably
13 guilty? That's why he's there?

14 PROSPECTIVE JUROR: No. I'm not saying he's guilty.
15 I'm just saying obviously there was some kind of investigation
16 or something as to why he would be in the position he's in.

17 MR. KELLY: Innocent people aren't just plucked off
18 the street? Is that your thought?

19 PROSPECTIVE JUROR: No. There's innocent people that
10:02 20 get in trouble all the time. That's why I said that they
21 should defend themselves, but then the judge explained it
22 shouldn't be that way. I get that.

23 MR. KELLY: You think they should defend themselves if
24 there's evidence against them?

25 PROSPECTIVE JUROR: Prior to when the judge explained

1 to me, yes, I thought that.

2 MR. KELLY: Just now when the judge gave you that
3 instruction, that took away your viewpoint?

4 PROSPECTIVE JUROR: Correct.

5 MR. KELLY: That you developed over 40 years.

6 PROSPECTIVE JUROR: Correct.

7 MR. KELLY: You saw some media coverage in this.
8 Netflix?

9 PROSPECTIVE JUROR: I didn't see it. I heard that
10:02 10 it's there, but yes.

11 MR. KELLY: You didn't watch it?

12 PROSPECTIVE JUROR: I didn't watch it.

13 MR. KELLY: How much media coverage, if any, have you
14 seen of this matter?

15 PROSPECTIVE JUROR: The only thing I really know about
16 it is Netflix or something is suing Netflix or something like
17 that. That's all I really know about it. And then prior to
18 this I know of that Full House lady or whatever it is. That's
19 all I really know.

10:03 20 MR. KELLY: No other media coverage comes to your
21 mind?

22 PROSPECTIVE JUROR: Nothing.

23 MR. KELLY: Nothing about Mr. Abdelaziz in this case?

24 PROSPECTIVE JUROR: Didn't even know who he was.

25 MR. KELLY: How about college sports? You college

1 sports fan at all?

2 PROSPECTIVE JUROR: No.

3 MR. KELLY: Sports fan in general?

4 PROSPECTIVE JUROR: I like football, NFL.

5 MR. KELLY: But other than that, no college sports?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Mr. Kendall.

8 MR. KENDALL: Thank you. Good morning. My name's

9 Mike Kendall. I represent John Wilson.

10:03 10 PROSPECTIVE JUROR: Good morning.

11 MR. KENDALL: I just wanted to focus on this issue of
12 the Netflix in the media coverage. Netflix was the only thing
13 you wrote down by name in your questionnaire.

14 PROSPECTIVE JUROR: Yes.

15 MR. KENDALL: What was it about Netflix that was so
16 memorable to you?

17 PROSPECTIVE JUROR: I have a Netflix account. When I
18 saw some kind of scrolling through social media, I saw
19 something about either Netflix is getting sued or somebody is
10:04 20 suing Netflix, something like that, about that. That's all I
21 saw.

22 MR. KENDALL: What did you read about that lawsuit?

23 PROSPECTIVE JUROR: Not much, just like the headline.

24 MR. KENDALL: What did you think about it when you saw
25 it?

1 PROSPECTIVE JUROR: Nothing.

2 MR. KENDALL: You haven't seen any part of the Netflix
3 documentary itself?

4 PROSPECTIVE JUROR: Nothing.

5 MR. KENDALL: Have you seen the general media coverage
6 about this case?

7 PROSPECTIVE JUROR: No. I'm not really -- I don't
8 watch the news. My news, I get it through social media,
9 whatever I scroll.

10:04 10 MR. KENDALL: Did you see anything about some of the
11 other people, celebrities or well-known people who might have
12 been part of this case?

13 PROSPECTIVE JUROR: I don't know if it's the same.
14 Like I said, that Full House lady or whatever.

15 MR. KENDALL: Did you have any thoughts about that?

16 PROSPECTIVE JUROR: No.

17 MR. KENDALL: Thank you very much. Appreciate your
18 candor.

19 THE COURT: Miss Kearney?

10:05 20 MS. KEARNEY: Good morning, Miss DaSilva. I have no
21 questions.

22 THE COURT: Miss DaSilva, I'm going to hold you in
23 reserve. That means that you may be called back at a later
24 time. In the meanwhile, please do not do any independent
25 research on this case. That would be entirely inappropriate.

1 I'm sure you understand why. Thank you.

2 (Prospective juror exits.)

3 THE COURT: With respect to the prior -- are you
4 rising on this?

5 MR. KENDALL: Yes. For this person.

6 If the Court wanted to say something, I didn't mean to
7 pop up too quickly.

8 THE COURT: I was going to go back to the prior one
9 for information we have with respect to Miss Seger's
10:06 10 daughter-in-law. Apparently, she is an intern for Judge Young.
11 He describes his interns as volunteer law clerks, but she is,
12 in fact, not a paid law clerk, but rather a 3-month intern.

13 MR. KENDALL: I don't know if Judge Young is involved
14 in this.

15 MS. KEARNEY: He does not have any of the related
16 cases.

17 MR. KELLY: From defendant Aziz's perspective, that is
18 not a ground for cause.

19 THE COURT: So Miss Seger is still in the reserve
10:06 20 pool.

21 Did somebody rise with respect to Miss DaSilva?

22 MR. KELLY: I did.

23 THE COURT: Yes, Mr. Kelly.

24 MR. KELLY: I think she's quite candid in her response
25 on 23, which goes against bedrock principal, in the justice

1 system. The Court instructed her quite firmly. I submit not
2 many people are going to deny a general judge when it's said to
3 them like this. She came to this courthouse with 40 years of
4 experience. This is her viewpoint. The defendant is there for
5 a reason. When someone says that, they mean the defendant's
6 there because he's probably guilty. That's a valid viewpoint
7 some people may have, but it's not part of the criminal justice
8 process. I think she would be biased against my client. On
9 that basis, I move to strike her for cause, your Honor.

10:07 10 THE COURT: Mr. Kendall.

11 MR. KENDALL: Your Honor, in addition to what
12 Mr. Kelly said, I'm particularly concerned about her reference
13 to the Netflix documentary lawsuit. We've had a few people
14 come in who have seen the documentary and have had full
15 discussion of their issues. She's the first person that shows
16 John Wilson is suing Netflix based on the documentary. I think
17 she's got too much information in the courtroom. To be honest,
18 I don't know if I view her as a candid witness. I think she
19 was trying to retreat from some of her answers because I think
10:08 20 she may be a person who wants to get on the jury. The fact
21 that she has more knowledge about the Netflix issue than
22 anybody else we've had come through this juror pool causes me
23 concern. That Netflix lawsuit is going to keep on going. It's
24 been in the newspapers. It's been reported. It will probably
25 continue to be.

1 I'd ask the Court. Everyone's been here through this.
2 If I had a question that I was concerned about the answer, I
3 still had great respect for the integrity of the person and
4 their answers and their forthrightness. This person I'm a
5 little bit concerned about, unlike any of the others.

6 THE COURT: Miss Kearney.

7 MS. KEARNEY: Your Honor, starting with the Netflix
8 concern, unlike some of the other jurors who are in our pool,
9 she hasn't even seen the Netflix documentary. She saw a
10:09 10 headline but didn't know who was suing or being sued. She
11 doesn't really have any information on the Netflix documentary.

12 Regarding her views on the burdens of proof, as soon
13 as you explained it to her, she did not hesitate to say she'd
14 be able to follow the Court's instructions. She also
15 acknowledged that innocent people get in trouble all the time
16 and that she just did not understand what the law was prior to
17 coming in, but she would not hesitate to follow your
18 instructions.

19 Regarding her forthrightness, she was extremely candid
10:09 20 and acknowledged that she had a different opinion but would be
21 able to follow your instructions.

22 THE COURT: I am not going to excuse her for the
23 Netflix comment. As I've said before, that is not an automatic
24 out because somebody has heard about the Netflix lawsuit, but I
25 am going to sustain the objection of attorney Kelly because,

1 notwithstanding the fact that she did acknowledge that she
2 would follow my instructions, I think that her opinion was a
3 little bit too ingrained and, therefore, I'm going to sustain
4 the objection of the defendant Aziz. So Miss DaSilva is
5 stricken.

6 Call the next one.

7 (Prospective juror enters.)

8 THE COURT: Good morning, Miss Wilson.

9 PROSPECTIVE JUROR: Good morning.

10:11 10 THE COURT: Please be seated. You're reminded you
11 remain under oath. You may remove your mask if you want to,
12 but you don't have to.

13 Miss Wilson, the first question is are you related to
14 the defendant Wilson in this case?

15 PROSPECTIVE JUROR: No, I am not.

16 THE COURT: Have you ever heard of him before?

17 PROSPECTIVE JUROR: No, at least I don't think so.
18 I've never heard of him, no.

19 THE COURT: The general question I guess for you is,
10:11 20 having answered all of the questions in the questionnaire
21 yesterday, and that was -- maybe it was the day before
22 yesterday, that was a very extensive questionnaire. Do you
23 have any doubt that if you're chosen to sit as a juror on this
24 case you could be fair and impartial?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: In other words, do you have doubt or do
2 you have no doubt?

3 PROSPECTIVE JUROR: I think -- no. I don't think I
4 have any doubt. I have a lot of opinions but I don't have any
5 doubts.

6 THE COURT: You could be fair and impartial in this
7 case? Is that the bottom line?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Can you decide this case solely based upon
10:12 10 the evidence that comes into this courtroom and not based upon
11 any other information that you have about the case?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Your daughter is a college athlete and it
14 bothers you that people are able to circumvent hard work and
15 take away a spot on the team. Would that overcome your ability
16 to be fair and impartial in this case or could you put that
17 opinion aside and decide this case based upon the evidence
18 against these defendants and not your general concept that
19 bribing people into college to let their child in is somehow,
10:13 20 is wrong?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Could you do that?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Kelly, any questions?

25 MR. KELLY: Sure. Just briefly. Good morning.

1 Thanks for coming in. I represent Mr. Aziz over here.

2 To follow-up quickly on a couple questions from the
3 judge, your daughter is a basketball player?

4 PROSPECTIVE JUROR: Yes. That's correct.

5 MR. KELLY: Anything about that process give you any
6 strong views? You said you had a lot of opinions.

7 PROSPECTIVE JUROR: Sure. I have feelings.

8 MR. KELLY: What would those feelings or opinions be
9 about this case?

10:13 10 PROSPECTIVE JUROR: My thought -- my feeling is
11 that -- I know based on experience how hard she worked getting
12 herself there, even just number of years and hours that she put
13 into that, and also the hours that she spent dedicated to her
14 academics. I think the conjunction of those two -- what am I
15 trying to say? I just know all the hard work that she put into
16 it and the time, all the tournaments, all the coaching that
17 she's gone to or has had in the past and will continue to have.
18 I know how much time and effort she's put into it.

19 MR. KELLY: Obviously she did a great job to get where
10:15 20 she's at. Given your observations of her and the hard work she
21 did, does that cause you to resent people who are accused of
22 taking a shortcut?

23 PROSPECTIVE JUROR: It wouldn't make me very happy if
24 I knew that, sure.

25 MR. KELLY: If that was the allegation, would you have

1 a hard time being fair in the case?

2 PROSPECTIVE JUROR: I'd like to hear all the evidence.
3 Oh, no. Yeah. I would not have a hard time being fair after
4 hearing all the evidence, sure.

5 MR. KELLY: So you'd keep an open mind that these are
6 just allegations --

7 PROSPECTIVE JUROR: Yes.

8 MR. KELLY: -- on the defense and the defense is
9 presumed innocent? You'd be okay with that?

10:15 10 PROSPECTIVE JUROR: Yes.

11 MR. KELLY: I guess you are a college sports fan
12 because your daughter is there. Do you follow any sports in
13 particular?

14 PROSPECTIVE JUROR: Well, I have to sit there all the
15 time with my husband watching sports these days because we're
16 the only two in the house. Always basketball, football. Those
17 are the two, baseball as well. I'm not a fanatic about it.

18 MR. KELLY: Lastly, on media coverage of this matter,
19 have you seen much media coverage about this?

10:16 20 PROSPECTIVE JUROR: I know it's out there. I know
21 it's happening. I haven't really followed very much of it.

22 MR. KELLY: The little bit that you saw, would it
23 affect your opinion as to this particular case?

24 PROSPECTIVE JUROR: No.

25 MR. KELLY: Thanks a lot.

1 THE COURT: Mr. Kendall.

2 MR. KENDALL: Yes. Thank you, your Honor.

3 Good morning.

4 PROSPECTIVE JUROR: Good morning.

5 MR. KENDALL: I'm Mike Kendall. I represent John
6 Wilson. Thank you for coming in. I just wanted to follow-up
7 again on the same issues that Mr. Kelly and the judge had
8 raised.

9 I appreciate your thoughts that you can be fair and
10:16 10 you can be respectful of the judge's instructions. I'm just
11 curious, on the first day of the trial, what would you be
12 thinking about the defendants?

13 PROSPECTIVE JUROR: I don't know. I think I would
14 just wait to hear how this is being presented.

15 MR. KENDALL: I've got no further questions.

16 THE COURT: Miss Kearney.

17 MS. KEARNEY: Good morning, Miss Wilson. You
18 indicated in your questionnaire that you previously served on a
19 jury. Is there anything about that experience that would
10:17 20 affect your ability to be fair and impartial in this case?

21 PROSPECTIVE JUROR: No.

22 MS. KEARNEY: It looks like you may have had
23 involvement in the criminal justice system or know someone who
24 was involved. Do you think whoever that was was treated
25 fairly?

1 PROSPECTIVE JUROR: By whom?

2 MS. KEARNEY: By the criminal justice system
3 generally.

4 PROSPECTIVE JUROR: Oh, sure. Yeah.

5 MS. KEARNEY: Is there anything about that experience
6 that would affect your ability to be fair and impartial?

7 PROSPECTIVE JUROR: No.

8 MS. KEARNEY: To follow-up on some of the questions
9 that Mr. Kelly and Mr. Kendall asked you, would you have any
10:18 10 problem putting your opinions aside and listening to the
11 evidence as it comes in during the trial?

12 PROSPECTIVE JUROR: I don't think so.

13 MS. KEARNEY: Thank you.

14 THE COURT: Thank you, Miss Wilson. You will be held
15 in reserve, which means you may be subject to callback. In the
16 meantime, please don't do any independent research on the case.
17 You understand that would be entirely inappropriate, right?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Thank you, Miss Wilson.

10:18 20 (Prospective juror exits.)

21 (Prospective juror enters.)

22 THE COURT: Good morning, Mr. Stanton.

23 PROSPECTIVE JUROR: Good morning.

24 THE COURT: Please be seated. You're reminded that
25 you remain under oath. You may remove the mask if you want to,

1 but you don't have to.

2 Mr. Stanon, would serving on a jury for 4 weeks, which
3 is about what this case would take, cause you any financial
4 hardship?

5 PROSPECTIVE JUROR: Well, sure, because Uber is about
6 30 to \$35 each way.

7 THE COURT: You're gainfully employed?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: What would you do if you couldn't go to
10:20 10 your job for 4 weeks?

11 PROSPECTIVE JUROR: Call out sick I guess.

12 THE COURT: I'm concerned that it may cause you
13 financial hardship. I don't want to cause you financial
14 hardship if serving on this jury would. I just don't know.
15 Would it?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: It would. I don't think we want to cause
18 you financial hardship. I will excuse you from this jury.
19 That doesn't excuse you from all jury duty. I hope that you
10:20 20 will be willing to serve on another jury because it's a very
21 important civic obligation that all of us have, but I think
22 having to serve for 4 weeks and go without a salary is too much
23 to ask. I'm going to excuse you.

24 PROSPECTIVE JUROR: Appreciate it.

25 THE COURT: Thank you.

1 MR. KENDALL: Your Honor, may I ask one or two
2 questions?

3 PROSPECTIVE JUROR: Yes.

4 MR. KENDALL: I noticed you worked at FW Webb in the
5 warehouse. Is that a big company?

6 PROSPECTIVE JUROR: Yes.

7 MR. KENDALL: Like likely to cover your salary while
8 you're on jury duty.

9 PROSPECTIVE JUROR: I'm still within the 90-day
10:21 10 period.

11 MR. KENDALL: You just started there?

12 PROSPECTIVE JUROR: Yes.

13 MR. KENDALL: They won't cover it for the 90 days?

14 PROSPECTIVE JUROR: I don't think so.

15 MR. KENDALL: You could check.

16 PROSPECTIVE JUROR: Yes.

17 MR. KENDALL: You started February 1st.

18 PROSPECTIVE JUROR: Through a temp agency.

19 MR. KENDALL: Then they took you on full-time?

10:21 20 PROSPECTIVE JUROR: About a month ago.

21 THE COURT: You're excused, Mr. Stanton. Thank you.

22 (Prospective juror exits.)

23 (Prospective juror enters.)

24 THE COURT: Good morning, Mr. Bobek. Bobek?

25 PROSPECTIVE JUROR: Bobek.

1 THE COURT: Good morning. You may be seated. You may
2 remove your mask if you want to, but you don't have to. You
3 are reminded you're under oath.

4 Mr. Bobek, would serving on this jury for 4 weeks
5 cause you a financial hardship?

6 PROSPECTIVE JUROR: I don't think so. I'm salary.
7 I'd have to check.

8 THE COURT: So that's not a problem?

9 PROSPECTIVE JUROR: No.

10:22 10 THE COURT: With respect to all of the questions you
11 were asked on that questionnaire, which was a very extensive
12 questionnaire, do you have any doubt at all that if you're
13 selected to be a juror on this case that you would be able to
14 be fair and impartial?

15 PROSPECTIVE JUROR: No doubt.

16 THE COURT: Can you decide this case based solely on
17 the evidence that comes into this courtroom and not based on
18 any information you may have from outside sources?

19 PROSPECTIVE JUROR: Yes.

10:23 20 THE COURT: Mr. Kelly, any questions?

21 MR. KELLY: Good morning. Thanks for coming in. My
22 name's Brian Kelly. I represent Mr. Aziz.

23 How about in terms of media coverage? Have you seen
24 any media coverage of this matter?

25 PROSPECTIVE JUROR: I've heard of this but a year or

1 more ago. I think I might have marked that I saw media
2 coverage, but I can't really remember anything about it, names
3 or people.

4 MR. KELLY: Nothing about what you did see over a year
5 ago would affect your approach to this case?

6 PROSPECTIVE JUROR: No.

7 MR. KELLY: How about college sports? There will be a
8 lot of discussion about college sports in this case. Are you a
9 college sports fan?

10:23 10 PROSPECTIVE JUROR: Not really, no.

11 MR. KELLY: That's it.

12 THE COURT: Mr. Kendall.

13 MR. KENDALL: No questions, your Honor.

14 THE COURT: Miss Kearney?

15 MS. KEARNEY: Good morning. I saw on your
16 questionnaire that you or someone you know was a victim to a
17 crime and a witness to a crime. Did you feel that whoever was
18 involved was treated fairly by the criminal justice system?

19 PROSPECTIVE JUROR: Yeah. I honestly answered that
10:24 20 because it's the only thing that really came to mind. It was a
21 minor incident, a break in at my sister's. I don't know if
22 they ever caught who did it. That was the best I could answer
23 that question.

24 MS. KEARNEY: Is there anything about that experience
25 that would affect your ability to be fair and impartial in this

1 case?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Thank you, Mr. Bobek. I'm going to hold
4 you in reserve, which means you may be called back for further
5 involvement in the case. In the meantime, please do not do any
6 independent research or go on the internet to look up about
7 this case. That would be entirely inappropriate about this
8 case. Thank you.

9 (Prospective juror exits.)

10:25 10 MR. SHEKETOFF: Your Honor, my youngest daughter works
11 at the same company as he does.

12 THE COURT: The same company as Mr. Bobek?

13 MR. SHEKETOFF: Yes. It's a company called Buildium.
14 It's not a giant company. It's not tiny. It's a unique last
15 name.

16 THE COURT: Do you want me to call him back and ask
17 him if he knows -- is it your daughter?

18 MR. SHEKETOFF: Yes.

19 THE COURT: Does counsel have a position in that?

10:25 20 MS. KEARNEY: Your Honor, I'm not opposed to calling
21 him back to see if he knows Mr. Sheketoff's daughter. I know,
22 according to Google, Buildium has over 300 employees.

23 THE COURT: Your daughter is named Rachel?

24 MR. SHEKETOFF: Sheketoff.

25 (Prospective juror enters.)

1 THE COURT: That you for coming back, Mr. Bobek. In
2 the interim, somebody has mentioned that they know somebody
3 that works at the same company that you do, Buildium.
4 Approximately, how many employees are at your company, if you
5 know?

6 PROSPECTIVE JUROR: I think it's close to 250 or 300
7 or so. It was acquired by Real Page, a much larger company
8 with thousands of employees, and most recently acquired by
9 Thoma Bravo, which is a large investment firm.

10:26 10 THE COURT: Where is it located where you work?

11 PROSPECTIVE JUROR: That is right across from
12 government center.

13 THE COURT: Here in Boston?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: One of the persons involved in this case
16 has a daughter who works there named Rachel Sheketoff. Do you
17 know Rachel Sheketoff?

18 PROSPECTIVE JUROR: I do know.

19 THE COURT: How?

10:27 20 PROSPECTIVE JUROR: Professional acquaintance. I
21 think she's on the product team. My position involves data
22 analytics. I interface with a lot of individuals around with
23 data so they can do their jobs.

24 THE COURT: If it were to turn out that one of
25 Rachel's relatives was involved in this case in any way, would

1 that affect your ability to be fair and impartial?

2 PROSPECTIVE JUROR: No. I don't think so, no.

3 THE COURT: You know her only professionally, not
4 socially?

5 PROSPECTIVE JUROR: That's correct.

6 THE COURT: Thank you. I'll hold you in reserve. You
7 may go back with the jury coordinator.

8 (Prospective juror exits.)

9 THE COURT: Counsel?

10:28 10 MR. KELLY: We don't have any objection. Passing
11 familiarity with her, doesn't seem like they deal with each
12 other on a direct basis. We're not going to move to strike.

13 MS. KEARNEY: The government agrees.

14 THE COURT: Thank you. We will move on.

15 MR. KELLY: Your Honor, we've reached the 40 mark.
16 Can we take a quick break?

17 THE COURT: We're going to see two more folks. Then
18 we'll take a break.

19 (Prospective juror enters.)

10:29 20 THE COURT: Good morning, Mr. Heffernan. Please be
21 seated. You are reminded you're under oath. You may remove
22 your mask, but you don't have to.

23 Mr. Heffernan, would serving on this jury for
24 approximately 4 weeks cause you financial hardship?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Generally, having answered all of the
2 questions on that questionnaire a day before yesterday, and it
3 was a very extensive questionnaire, do you have any doubt at
4 all that if you were chosen to sit as a juror in this case that
5 you could be fair and impartial?

6 PROSPECTIVE JUROR: Do I have any doubt? No.

7 THE COURT: Can you decide this case based solely on
8 the evidence that comes into this courtroom and not based upon
9 any information you have from other sources?

10:30 10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Mr. Kelly, any questions?

12 MR. KELLY: Just briefly. Good morning. Brian Kelly.
13 I represent Mr. Aziz. Thanks for coming in.

14 This case will involve a lot of discussion of college
15 sports. Do you follow college sports at all?

16 PROSPECTIVE JUROR: Not really.

17 MR. KELLY: You haven't heard anything in the media
18 that gives you any opinion about this case one way or another?

19 PROSPECTIVE JUROR: That gives me an opinion? I read
10:31 20 in the case perhaps six or 8 months ago, but did it form an
21 opinion? I'm open, I think.

22 MR. KELLY: So you're open to both sides.

23 MR. KELLY: Thank you.

24 THE COURT: Mr. Kendall.

25 MR. KENDALL: Briefly, your Honor.

1 Good morning. My name's Mike Kendall. I represent
2 John Wilson.

3 You described your job as a solution executive at Tech
4 Systems. What do you do?

5 PROSPECTIVE JUROR: It's a consultant. We go in and
6 work with larger companies to get an understanding of their IT
7 infrastructure and we make recommendations on how to improve
8 it.

9 MR. KENDALL: What's your role in all of that?

10:31 10 PROSPECTIVE JUROR: I'm basically a solution exec who
11 helps plan and figure out what's needed for a particular
12 situation. If someone needs IT or something like that, I help
13 plan and I might run an engagement team.

14 MR. KENDALL: Fair to say your expertise is more on
15 the IT side of things than business?

16 PROSPECTIVE JUROR: IT and business. Years ago,
17 6 years ago I was in IBM and it was business side of it, so I
18 did a lot of business strategy.

19 MR. KENDALL: Thank you.

10:32 20 THE COURT: Miss Kearney.

21 MS. KEARNEY: Good morning. I see from your
22 questionnaire you previously served on a jury. Is there
23 anything about that experience that would affect your ability
24 to be fair and impartial in this case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Thank you, Mr. Heffernan. I'm going to
2 hold you in reserve. That means that you may be called back
3 for further involvement in this case, but in the meantime,
4 please do not do any independent research or go online to try
5 to find about this case. That would, of course, be
6 inappropriate, as you understand, right?

7 PROSPECTIVE JUROR: I understand, yes.

8 THE COURT: Thank you.

9 (Prospective juror exits.)

10:32 10 (Prospective juror enters.)

11 THE COURT: Good morning, Miss Willis. Please be
12 seated. You may remove the mask if you want to, but you don't
13 have to.

14 PROSPECTIVE JUROR: Happily. Thank you.

15 THE COURT: Miss Willis, would serving on this jury
16 for approximately 4 weeks cause you financial hardship?

17 PROSPECTIVE JUROR: Probably not financial hardship.

18 THE COURT: So that's not a problem for this service
19 or is it?

10:34 20 PROSPECTIVE JUROR: No, no, it's not.

21 THE COURT: With respect generally to the questions
22 that you were asked on that questionnaire, which I know is very
23 extensive, do you have any doubt at all that if you were
24 selected to serve on this jury that you could be fair and
25 impartial?

1 PROSPECTIVE JUROR: I don't have any doubt I could be
2 fair and impartial.

3 THE COURT: Can you decide this case solely based on
4 the evidence that comes into this courtroom and not on any
5 information you may have acquired outside this courtroom?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Mr. Kelly, any questions?

8 MR. KELLY: Just briefly. Good morning. Brian Kelly
9 on behalf of Mr. Aziz. Thanks for coming in.

10:34 10 This case may involve a lot of testimony about the
11 college sports scene. Are you a college sports fan at all?

12 PROSPECTIVE JUROR: Not really. My sons are.

13 MR. KELLY: Thanks. That's it.

14 THE COURT: Mr. Kendall.

15 MR. KENDALL: Briefly, your Honor.

16 Good morning. I'm Mike Kendall. I represent John
17 Wilson.

18 Just a couple questions on your answers. You said in
19 nine that you are an owner of the Rockwell Restaurant Group.
10:35 20 Could you describe what that is and what you do.

21 PROSPECTIVE JUROR: I own three restaurants. Rockwell
22 Restaurant Group, I'm technically not an owner. I'm a member.
23 It's an LLC. But I have two other businesses that are separate
24 entities. There wasn't a lot of room there to elaborate.

25 MR. KENDALL: What the are the other businesses?

1 PROSPECTIVE JUROR: One is the Prospect Hill Partners
2 and the d/b/a is The Independent. The other one is Union
3 Square Group, and the d/b/a is Vieras. All are restaurants in
4 Somerville.

5 MR. KENDALL: Is that that area that's sort of open
6 and there's restaurants all around?

7 PROSPECTIVE JUROR: One of them is in Davis Square,
8 Somerville, two of them are in Union Square, Somerville.

9 MR. KENDALL: In number 39, you said you had not heard
10:36 10 any news coverage about the case known as Varsity Blues or the
11 college admissions case. You've heard nothing about it?

12 PROSPECTIVE JUROR: No. I've seen when I'm watching
13 about a year ago when I was watching the evening news I would
14 occasionally see a celebrity outside of this courthouse. Then
15 I did a couple of days ago, I was skimming the Globe, and I saw
16 a headline. I started to read it and read the first paragraph
17 and said jury selection begins on Wednesday at this courthouse.
18 I thought, oh, that's probably what I'm going for and I
19 stopped.

10:36 20 MR. KENDALL: Do you have any thoughts about the case
21 or any articles you've seen?

22 PROSPECTIVE JUROR: No.

23 MR. KENDALL: Thank you for coming in.

24 THE COURT: Miss Kearney.

25 MS. KEARNEY: I have no questions.

1 THE COURT: Thank you, Miss Willis. I'm going to hold
2 you in reserve. You may get called for further service on this
3 jury. In the meantime, do not do any independent research
4 about this case that. Would be inappropriate, of course. Thank
5 you, Miss Willis.

6 PROSPECTIVE JUROR: Thank you.

7 (Prospective juror exits.)

8 THE COURT: By my count, we have 41 cleared jurors. I
9 think we are able now to go to the next process. Let me speak
10:37 10 to Mr. McAlear and make sure my count is correct.

11 We started with 35, lost one to 24, and I think we've
12 had seven since we started.

13 MR. KENDALL: We have eight, your Honor.

14 THE COURT: I might have missed one. So that means we
15 have 42?

16 MR. KENDALL: Yes, your Honor.

17 THE COURT: All right.

18 Counsel, I've just consulted with the jury coordinator
19 to make sure I have the information correct. As you all know,
10:40 20 we have from the second tranche about 25 potential jurors in
21 the jury room. I'm not going to dismiss them now. During this
22 next phase, that is when I call in these 42 cleared jurors and
23 we go through the process of putting them in the jury box and
24 allowing counsel to exercise peremptory challenges.

25 After that process is done and, presumably, we have a

1 jury of 16, I would dismiss the people in the second tranche,
2 but I will not unconditionally dismiss those who are left over
3 from the 42 that I'm going to call back, the reason being is
4 that sometimes over the weekend things happen and I want to
5 have the availability of six or so potential jurors in case
6 somebody for some unforeseen reason needs to be replaced on
7 Monday morning. I will not swear the jury today, so jeopardy
8 will not attach until Monday when we come back and begin the
9 trial, at which point I will swear the jury, of course.

10:41 10 Any problem with that?

11 MR. KELLY: Not from defendant Aziz's perspective.

12 THE COURT: Mr. Kendall?

13 MR. KENDALL: Not from Mr. Wilson's perspective.

14 THE COURT: The government?

15 MS. KEARNEY: No, your Honor.

16 THE COURT: What I propose to do now is take a short
17 break, maybe 15 minutes, so Mr. McAlear can get the 42 people
18 who will be assembled in the back of this courtroom. After we
19 come back, my deputy clerk will, as she always has for all of
10:41 20 my prior trials, go through and randomly select numbers to sit
21 in the box. Of course, she'll announce the number of the juror
22 and the name. They will be seated sequentially in the jury
23 box, up to 16. I hope we have 16 seats in the jury now. We'll
24 remove the back chair in the back row there so we'll have 8 in
25 each row.

1 We will keep track of all the names. After we have
2 all the 16, my former procedure was to ask each of them what
3 they do for a living and, if they're married, what their spouse
4 does. We all know that now so we're not going to do that.
5 We're going to go immediately to sidebar where counsel will be
6 invited to exercise peremptory challenges one at a time. The
7 government will go first. The defendants will go second until
8 everyone is satisfied, understanding there is no back strike.
9 After the first round, that juror is permanent.

10:43 10 Finally, again, after we replace jurors and get,
11 whether it's two or three rounds, the last four jurors in the
12 jury box, no matter which seats they're seated in, will be the
13 alternates. The 13th juror seated will be alternate number
14 one, the 14th, number two, et cetera, et cetera. Any problems
15 with the procedure we're going to follow?

16 MR. KELLY: For defendant Aziz, this is not under
17 seal? This is going to be public?

18 THE COURT: No. We are going to be public now. We're
19 through selecting individual jurors by voir dire. The reason
10:43 20 we did that outside the public's hearing is because it's a
21 sidebar situation. I wanted to respect the privacy of the
22 jurors. From this point forward, it's a public hearing and we
23 will be on Zoom and people will be eligible to come into the
24 courtroom, although -- we're going to tell people that we'll
25 have a few seats reserved for the public in addition to the 42

1 potential jurors. The Zoom will be turned on and there's an
2 overflow courtroom available.

3 Any questions, Mr. Kendall?

4 MR. KENDALL: No, your Honor. One small thing. We
5 may need to step aside to confer between us to respond to you.
6 That's all.

7 THE COURT: By step aside, we'll be at sidebar. You
8 can step back or go back to counsel table, if you want.

9 MR. KENDALL: That's all I need. Thank you.

10:44 10 THE COURT: Will all counsel be coming to sidebar or
11 will you reduce yourselves to two a piece? If you want to
12 come, you can. I don't have a problem with it. It will be
13 crowded.

14 MR. KENDALL: If we need that, we will not crowd.

15 THE COURT: One will be designated from each side to
16 exercise peremptory challenges. You'll have to tell me that.
17 It will be Mr. Kelly, Mr. Kendall, and for the government?

18 MR. FRANK: Me, your Honor.

19 THE COURT: Mr. Frank.

10:45 20 MR. KENDALL: Can I clarify one thing?

21 THE COURT: Yes.

22 MR. KENDALL: We're obviously working in a
23 collaborative way. When we exercise our challenge, is it one
24 government, one defense, or one government, one Aziz, one
25 Wilson?

1 THE COURT: That's up to you. If you want to split
2 them down the middle.

3 MR. KENDALL: We don't. We want to do it as
4 one block.

5 THE COURT: Obviously, the defendants have slightly
6 more challenges. They have 12, as opposed to eight by the
7 government. I used to say one for the government, two for
8 defendants. I haven't been doing that lately. You are
9 certainly free to go back and forth until you're satisfied in
10:46 10 that first round.

11 In other words, the government will exercise its
12 peremptory in the first round. If we get to a second round,
13 defendants will go first. A third round, government will go
14 first. I'm not going to say this is Mr. Kelly's challenge or
15 Mr. Kendall's challenge. You can agree to that amongst
16 yourselves, but you will both have the opportunity during that
17 first round to make challenges.

18 MR. KENDALL: Okay. If we want to go one, one, one,
19 one, one all the way through, that's acceptable for the Court?

10:46 20 THE COURT: Is there a problem with that from the
21 government's side?

22 MR. FRANK: Your Honor, my understanding is the
23 customary way of doing it is one two, is that right?

24 THE COURT: Well, it was. I haven't followed that
25 procedure in a couple of years because, as a matter of fact,

1 both sides can exercise as many peremptories as they want
2 during any round. So whether it's now or later doesn't seem to
3 make a big difference. It will be one for the government. One
4 for the defendant. One for the government. One for the
5 defendant and so forth.

6 MR. FRANK: Within each round.

7 THE COURT: All the way through, yes. In the second
8 round, it will be one for the defendant, one for the
9 government, one for the defendant, one for the government.

10:47 10 MR. FRANK: That makes perfect sense. Thank you.

11 MR. KENDALL: Thank you, your Honor.

12 THE COURT: Anything else that needs to come to my
13 attention before we recess for about 15 minutes?

14 MR. KELLY: That would be my request. Could we start
15 at 11:15? I think I have to talk to Mr. Kendall about a couple
16 matters.

17 THE COURT: We'll make it 11:10. Okay?

18 MR. KENDALL: Thank you.

19 THE COURT: I want to move this thing along. We're in
10:48 20 recess.

21 (Recess taken 10:48 a.m. to 11:28 a.m.)

22 THE CLERK: This is Criminal Action No. 19-10080, the
23 United States of America versus Gamal Abdelaziz and John
24 Wilson.

25 Would counsel please introduce themselves for the

1 record.

2 MR. FRANK: Good morning, your Honor. Stephen Frank,
3 Kristen Kearney, Leslie Wright and Ian Stearns for the United
4 States.

5 THE COURT: Good morning, counsel.

6 MR. KELLY: Good morning, your Honor. Brian Kelly and
7 Joshua Sharp on behalf of the defendant Gamal Abdelaziz.

8 THE COURT: Good morning, counsel.

9 MR. KENDALL: Good morning, Mike Kendall, Andy Tomback
11:29 10 and Lauren Papenhausen on behalf of Mr. Wilson.

11 THE COURT: Good morning, counsel.

12 Good morning, jurors. Of course, we've seen each
13 other before. You are the pool that have been reserved,
14 meaning that you are going to participate in the further
15 selection of a jury. What we do now is that my deputy clerk in
16 a few minutes will at random call 16 of you to sit in the jury
17 box, and she'll instruct you which seat to sit in.

18 Then, counsel and I will withdraw to sidebar. What
19 you will hear is what we call white noise. It's basically
11:29 20 static to more or less preserve the privacy of the
21 conversations that are here. It's not that we're trying to
22 keep secrets from you. It's that we are discussing matters
23 that you need not be concerned about, but they are important to
24 the selection of this jury.

25 Then you will see how we proceed from that point

1 forward. Some of you may get stricken from the jury. It
2 doesn't mean you're not qualified to be a juror. It's that we
3 have what we call peremptory challenges where counsel can
4 challenge jurors that they feel they would prefer to have
5 somebody else on the jury. That's the way the system works.

6 With that, I'm going to turn it over to my deputy
7 clerk who is going to call the numbers. You will be identified
8 by name and number. We will know which seat it is that you are
9 seated in.

11:30 10 THE CLERK: Juror No. 116, Christopher Bobek. Please
11 come forward and take Seat No. 1 in the jury box. Seat No. 1
12 in the seat closest to me in the front row.

13 PROSPECTIVE JUROR: What was the name?

14 THE CLERK: Christopher Bobek.

15 Would Juror No. 37, Marina Lacorazza, please come
16 forward and take Seat No. 2.

17 Juror No. 120, Jessica Willis, please come forward and
18 take Seat No. 3.

19 Juror No. 11, Julie Lightbody, please come forward and
11:32 20 take Seat No. 4.

21 Juror No. 32, Patrick Eddy, please come forward and
22 take Seat No. 5.

23 Juror No. 27, Hector Diaz, please come forward and
24 take Seat No. 6.

25 Juror No. 94, Robert Day, please come forward and take

1 Seat No. 7.

2 Juror No. 84, Dorothy Roberts, please come forward and
3 take Seat No. 8.

4 Juror No. 60, Anthony Yee, please come forward and
5 take Seat No. 9. Mr. Yee, Seat No. 9 is the first seat in the
6 second row.

7 Juror No. 55, Lucas Ratliff, please come forward and
8 take Seat No. 10.

9 Juror No. 14, Roger Ross, please come forward and take
11:36 10 Seat No. 11.

11 Juror No. 91, Veronica Pierce, please come forward and
12 take Seat No. 12.

13 Juror No. 44, Allison Burke, please come forward and
14 take Seat No. 13.

15 Juror No. 69, Steven Kennie, please come forward and
16 take Seat No. 14.

17 Juror No. 77, Zatcha Montes, please come forward and
18 take Seat No. 15.

19 Juror No. 38, Jeffrey Wakelin, please come forward and
11:38 20 take Seat No. 16.

21 THE COURT: All right. As I said before, jurors, we
22 will have a sidebar conference now. You will hear this white
23 noise, which is basically the static, to preserve the privacy
24 of our conversation. I will see counsel at sidebar.

25 *** Start of sidebar ***

1 THE COURT: As I've said before, in the first round,
2 the government goes first. Do you have any peremptory
3 challenges, Mr. Frank?

4 MR. FRANK: So I'm clear, your Honor, are we going by
5 seat number or juror number?

6 THE COURT: I want you to give me the seat number
7 first and then the number of the juror, if you have it.

8 MR. FRANK: Yes, your Honor. We move to strike Seat
9 No. 4, Juror No. 11, Miss Lightbody.

11:40 10 THE COURT: All right. That would be Seat No. 4,
11 Miss Lightbody.

12 MR. FRANK: Yes, your Honor.

13 THE COURT: Now we'll go to the defendants. Actually,
14 give me the number of the juror first and then the seat number.

15 MR. KELLY: 60.

16 THE COURT: And seat number?

17 MR. KELLY: Nine. That would be Mr. Yee, number 60.

18 THE COURT: In seat nine. Okay. Back to the
19 government.

11:41 20 MR. FRANK: Seat No. 7, Juror No. 94, Mr. Day.

21 THE COURT: 94, Mr. Day. Okay.

22 MR. KELLY: 77.

23 THE COURT: 77 in seat 15?

24 MR. KELLY: Yes, Judge.

25 THE COURT: Government?

1 MR. FRANK: Can we have a moment, your Honor?

2 THE COURT: Yes, you may.

3 MR. FRANK: Seat No. 16, Juror No. 38.

4 THE COURT: That is No. 38 in seat 16. That is
5 Mr. Wakelin, correct?

6 MR. FRANK: Yes, your Honor.

7 THE COURT: Back to the defendants.

8 MR. KELLY: Juror 32. I think it's seat --

9 THE COURT: Five?

11:44 10 MR. KELLY: Yes.

11 THE COURT: That would be Mr. Eddy.

12 MR. FRANK: We need one more moment.

13 THE COURT: Yes, of course.

14 MR. FRANK: That's it from us, Judge.

15 THE COURT: Defendants?

16 MR. KELLY: Can we now consult?

17 THE COURT: Yes, you may.

18 MR. KELLY: Have they rested?

19 THE COURT: They said they have no more challenges,
11:45 20 but after you make another challenge, I will offer them the
21 opportunity to make another challenge.

22 MR. KELLY: Thank you.

23 THE COURT: Yes?

24 MR. KELLY: From this group, we don't have anymore.

25 THE COURT: I'll go back to the government one more

1 time. Do you have anymore?

2 MR. FRANK: No, your Honor.

3 THE COURT: Come in, counsel. I want to make sure I
4 got it correct. Those jurors currently seated in seats 4, 5,
5 7, 9, 15, and 16 have been challenged. Am I correct?

6 MR. KELLY: Do we have the juror numbers, your Honor?

7 THE COURT: Yes, Juror No. 11 in seat four; Juror 32
8 in seat five; Juror No. 94 in seat 7; Juror No. 60 in seat 9;
9 Juror No. 77 in seat 15; and Juror No. 38 in seat 16. Those
11:47 10 are the only six challenges that I've heard, correct?

11 MR. FRANK: Yes.

12 THE COURT: All right. Understood that the ten
13 remaining jurors cannot be stricken in a later round. Counsel
14 understands that?

15 MR. FRANK: Yes.

16 THE COURT: We will fill those six seats. You may
17 return to counsel table. We'll go through the process.

18 MR. KENDALL: Thank you, your Honor.

19 *** End of sidebar ***

11:48 20 THE CLERK: The following jurors have been excused and
21 may report down to Jim McAlear in the back there.

22 Juror No. 11, Julie Lightbody; Juror No. 32, Patrick
23 Eddy; Juror No. 44, Robert Day; Juror No. 60, Anthony Yee;
24 Juror No. 77, Zatcha Montes; and Juror No. 38, Jeffrey Wakelin.

25 THE CLERK: Filling Seat No. 4 in the front row, Juror

1 No. 13, Paige Leighton, please come forward.

2 Filling Seat No. 5, Juror No. 109, Kelsey Bradford,
3 please come forward.

4 Filling Seat No. 7, Juror No. 33, Therese Arsenault,
5 please come forward.

6 Filling Seat No. 9, Juror No. 16, Bryant Ayles, please
7 come forward.

8 Filling Seat No. 15, Juror No. 112, Susan Seger,
9 please come forward.

11:51 10 Filling Seat No. 16, Juror No. 111, Steven Pitts,
11 please come forward.

12 THE COURT: I will see counsel at sidebar.

13 *** Beginning of sidebar ***

14 THE COURT: Before we start, counsel, I need to
15 inquire of the defendants since it is a constitutional right
16 for your client to be at sidebar. Do your clients waive that
17 right?

18 MR. KELLY: On behalf of defendant Aziz, we waive that
19 right.

11:54 20 MR. KENDALL: On behalf of defendant Wilson, we do.

21 THE COURT: In this round, the defendants go first.
22 Any challenges, Mr. Kelly?

23 MR. KELLY: In seat 4, Juror No. 13. That would be
24 Miss Leighton.

25 THE COURT: Turning to the government.

1 MR. FRANK: Seat 16, Juror 111.

2 THE COURT: That would be Mr. Pitts.

3 MR. FRANK: Yes.

4 THE COURT: Back to the defendants.

5 MR. KELLY: Seat 5, Juror 109.

6 THE COURT: 109 in seat 5, that would be

7 Miss Bradford, correct?

8 MR. KELLY: Yes.

9 THE COURT: Government?

11:55 10 MR. FRANK: Nothing further, Judge.

11 THE COURT: Defendants?

12 MR. KELLY: Yes. We strike Juror No. 33 in seat 7.

13 THE COURT: That would be Miss Arsenault?

14 MR. KELLY: Yes.

15 THE COURT: I'll go back to the government and

16 inquire. Do you have any further strikes?

17 MR. FRANK: No, your Honor.

18 THE COURT: Again, for the defendants, any further

19 strikes?

11:56 20 MR. KELLY: Yes, your Honor. Juror 112 in seat 15.

21 THE COURT: That is Miss Seger?

22 MR. KELLY: Yes, your Honor.

23 THE COURT: Once again defendants?

24 MR. KELLY: Nothing further from the defendants. I
25 have those in seats 4, 5, 7, 15 and 16 being stricken, is that

1 correct?

2 MR. KELLY: Yes, your Honor.

3 THE COURT: Understand now, if there were no further
4 strikes, the first person seated this time around would be the
5 12th juror and all of the remainders would be alternates. Do
6 you understand that?

7 MR. KELLY: That's a good point. Can I discuss that?

8 THE COURT: Yes.

9 MR. KELLY: Thank you, your Honor. We're fine.

11:57 10 THE COURT: I just want to make sure I have it, 4, 5,
11 7, 15 and 16. Those seats will be filled. Return to counsel
12 table.

13 *** End of sidebar ***

14 THE CLERK: The following jurors have been excused and
15 may report down to Mr. McAlear to your right.

16 Juror No. 13, Paige Leighton; Juror No. 109, Kelsey
17 Bradford; Juror No. 33, Therese Arsenault; Juror 112, Susan
18 Seger; and Juror No. 111, Steven Pitts.

19 Filling Seat No. 4, Juror No. 118, Robert Heffernan,
11:59 20 please come forward.

21 Filling Seat No. 5, Juror No. 64, Elizabeth Marini,
22 please come forward.

23 Filling Seat No. 7 is Juror No. 79, Megan Dodd, please
24 come forward.

25 Filling Seat No. 15, Juror No. 49, Wayne Glassman,

1 please come forward.

2 Filling Seat No. 16, Juror No. 114, Maria Elena
3 Wilson, please come forward.

4 THE COURT: Once again, I will see counsel at sidebar.

5 *** Beginning of sidebar ***

6 THE COURT: In the third round, government goes first.
7 Mr. Frank.

8 MR. FRANK: Seat No. 15, Juror No. 49.

9 THE COURT: That would be Mr. Glassman, is that
10 correct?
12:02

11 MR. FRANK: Yes.

12 THE COURT: Defendants?

13 MR. KELLY: In seat 16, Juror No. 14.

14 THE COURT: That would be Miss Wilson, correct?

15 MR. KELLY: Yes.

16 THE COURT: Back to the government?

17 MR. FRANK: Nothing further.

18 THE COURT: Back to defendants.

19 MR. KELLY: In seat five, No. 64.

12:02 20 THE COURT: That would be Miss Marini, correct?

21 MR. KELLY: Yes, your Honor.

22 THE COURT: Once again to the government if they've
23 changed their mind?

24 MR. FRANK: No, your Honor.

25 THE COURT: Again to the defendants?

1 MR. KELLY: No, your Honor.

2 THE COURT: So those in seats 5, 15, and 16 have been
3 stricken. You understand that those are the second, third and
4 fourth alternates. The first alternate was the last one
5 seated. I will have to calculate that, if somebody could come
6 up with it. These last three will all be alternates.

7 MR. FRANK: Your Honor, who is the 12th juror? I'm
8 confused.

9 THE COURT: Who is the first alternate? Okay. The
10 first alternate is Megan Dodd. All the rest that are going to
11 be seated are alternates. Other than Miss Dodd, they're all
12 jurors.

13 MR. FRANK: Thank you.

14 THE COURT: We're going to fill the seats 5, 15 and
15 16.

16 MR. KENDALL: Thank you, your Honor.

17 *** End of sidebar ***

18 THE CLERK: The following jurors have been excused and
19 may see Mr. McAlear at the doors.

12:04 20 Juror No. 64, Elizabeth Marini; Juror No. 49, Wayne
21 Glassman; Juror No. 114, Maria Elena Wilson.

22 Filling Seat No. 5, Juror No. 52, John Marshall,
23 please come forward.

24 Filling Seat No. 15, juror No. 93, Haibo Liu, please
25 come forward.

1 Filling Seat No. 16, Juror No. 74, Karen Wilcox,
2 please come forward.

3 THE COURT: We'll see counsel.

4 *** Beginning of sidebar ***

5 THE COURT: All right. This round the defendants go
6 first. Any challenges?

7 MR. KELLY: Yes, your Honor. Seat 15, No. 93.

8 THE COURT: That would be Mr. Liu, right?

9 MR. KELLY: Correct.

12:07 10 MR. FRANK: In seat 16, No. 74.

11 THE COURT: That would be Miss Wilcox, correct?

12 MR. FRANK: Yes, your Honor.

13 THE COURT: Defendants?

14 MR. KELLY: Nothing further.

15 THE COURT: Government?

16 MR. FRANK: Nothing further.

17 THE COURT: So those in seats 15 and 16 will be
18 excused. We will fill those seats once again.

19 MR. KENDALL: May I just confirm one thing, your
12:08 20 Honor, in terms of the strikes that are left? We have two
21 left.

22 THE COURT: You have two left.

23 MR. KENDALL: The government?

24 THE COURT: The government has two left as well.

25 MR. KENDALL: Thank you.

1 *** End of sidebar ***

2 THE CLERK: The following jurors have been excused and
3 may see Mr. McAlear at the doors: Juror No. 94, Haibo Liu, and
4 Juror No. 74, Karen Wilcox.

5 Filling Seat No. 15 is juror No. 42, Zarabeth Golden.

6 Filling Seat No. 16, Juror No. 72, Samuel
7 Schilmeister, please come forward.

8 THE COURT: Once more, counsel.

9 *** Beginning of sidebar ***

12:11 10 THE COURT: Fifth round government goes first.

11 MR. FRANK: Juror No. 16 -- Seat No. 16, Juror No. 72.

12 THE COURT: So that would be 72 in seat 16. That
13 would be Mr. Schilmeister, correct?

14 MR. KENDALL: Your Honor, we want to raise an
15 objection to that strike. Mr. Schilmeister is the person that
16 reportedly had some issues with being on the autism spectrum.
17 Mr. Frank expressed to us that he should be automatically
18 excluded and not even called back because of the disability.
19 I'd like to know if the government has a reason to strike him
12:11 20 other than he has a disability. He expressed very strong views
21 about the disability that aren't appropriate. He may have
22 autism, but he was very responsive and very articulate
23 understanding your questions. We think that's not a proper
24 strike, your Honor.

25 THE COURT: Mr. Frank?

1 MR. FRANK: Mr. Kendall always manages to personalize
2 it, which I resent, but we expressed views based on his
3 questionnaire in which he said that he is uncomfortable in
4 crowded places. He also was unable to answer the question of
5 what his parents did professionally, he wasn't sure what kind
6 of lawyers they were. It seemed to us that he was not
7 following the Court's questions, was confused. For those
8 reasons, we move to strike him.

9 MR. KENDALL: If I may, your Honor, we specifically
10 asked him if he had any problems sitting in the box with the
11 jury. He said no, the courtroom was fine, the juror was fine.
12 The transcript, I believe, will show his response.

13 THE COURT: I don't see that the government has
14 demonstrated that they're striking him because of his
15 disability in their peremptory challenge to strike him. I'm
16 going to allow them to strike him.

17 MR. KENDALL: Thank you for your patience, your Honor.

18 THE COURT: Are there any other strikes?

19 MR. KELLY: In seat 15, Juror 22.

12:13 20 THE COURT: That will be Miss Golden, correct?

21 MR. KELLY: Yes, your Honor.

22 THE COURT: Then both of the seats 15 and 16, the hot
23 seats, will be filled one last time or maybe not. Each side
24 has one more peremptory challenge.

25 Let me say this, counsel, while we're here. After we

1 have a neutral jury, I am going to dismiss those in the back of
2 the courtroom for today. As I think I'd said later, I'm not
3 going to dismiss this jury in case we have some problems over
4 the weekend. If we were to have a problem and on Monday
5 morning had to call one more of the jurors back, we would call
6 the five or six or eight or however many there are and the
7 deputy would, just as she's done up to this point, at random
8 pick a juror or two or however many we would have. Understand
9 at that stage, if you use your last peremptory now, you would
10 have no peremptories on Monday. So just stand forewarned that
11 the possibility of replacement might mean you wouldn't have any
12 peremptories.

13 Now, I would hear counsel if you wanted to argue
14 jointly that you ought to have one more peremptory, if that
15 happens, but as of now, both sides have used all but one of
16 their peremptories. Under the rules that we have going now, if
17 you use that today, you wouldn't have it available in the
18 unlikely event that we have to go and pick some new juries on
19 Monday.

12:14 20 MR. KENDALL: Can we have one moment?

21 THE COURT: Yes, you may.

22 MR. FRANK: We would agree to one additional in the
23 event that happens.

24 MR. KENDALL: We would agree as well.

25 THE COURT: So you have one left today. If this

1 unlikely occurrence happens on Monday, each side will have one
2 additional.

3 MR. KENDALL: Yes. Thank you, your Honor. We
4 appreciate it.

5 THE COURT: So we need to replace the people in 15 and
6 16 one more time.

7 MR. KENDALL: Yes. Thank you.

8 *** End of sidebar ***

9 THE CLERK: The following jurors have been excused and
10 may see Mr. McAlear at the door: Juror No. 42, Zarabeth Golden,
11 and Juror No. 72, Samuel Schilmeister.

12 Filling Seat No. 15, Juror No. 106, Monica Reyes,
13 please come forward.

14 Filling Seat No. 16, Juror No. 82, Melanie
15 Bettencourt, please come forward.

16 *** Beginning of sidebar ***

17 THE COURT: This round defendants first.

18 MR. KELLY: Using the last one, seat 16, Juror 82.

19 THE COURT: That would be Miss Bettencourt, right?

12:19 20 MR. KELLY: Yes.

21 THE COURT: Government?

22 MR. FRANK: Nothing further.

23 THE COURT: So we will replace the last seat. The
24 defendants are out of challenges. The government has one left
25 as of now.

1 Counsel, what I'm going to do now is I'm going to
2 declare that we have a jury indifferent and then dismiss the
3 folks in the back of the courtroom, but tell them that they
4 need to remain available on Monday. I'm going to read out that
5 charge that we gave them yesterday just to remind them that
6 they're not to do any text messaging, they're not to talk to
7 anybody about the case because they still are eligible to be on
8 this jury, notwithstanding the fact that it's unlikely that
9 they will be called. All right?

12:20 10 MR. FRANK: Yes, your Honor.

11 MR. KENDALL: Thank you, your Honor.

12 *** End of sidebar ***

13 THE CLERK: Juror No. 82, Melanie Bettencourt, you
14 have been excused.

15 Filling Seat No. 16, Juror No. 87, Mark Callahan,
16 please come forward.

17 THE COURT: Counsel.

18 *** Beginning of sidebar ***

19 THE COURT: Government?

12:21 20 MR. FRANK: We're satisfied with the jury.

21 THE COURT: Then, counsel, this is the jury.

22 I will declare that we have a jury indifferent. I'm
23 going to dismiss them, the remainder of the jurors, with the
24 instructions that they are to remain available to be called
25 Monday.

1 I'm going to say a few other things. I'm going to
2 tell them about when the trial is going to start, what the
3 general procedure's going to be day-to-day, that is we go
4 mornings and most afternoons. I'm also going to tell them
5 there's a few days that they will have off, namely next
6 Thursday, Yom Kippur, and the Thursday at the end of the month
7 when I'm detained on MDL business.

8 Also, I understand, Mr. Kendall, you wanted to have no
9 afternoon session on Wednesday.

12:22 10 MR. KENDALL: I'll do whatever is respectful to the
11 court. The Yom Kippur holiday starts midday Wednesday. If we
12 didn't have a midday session, that would be wonderful. If the
13 Court thinks we need it for the schedule, we can keep it.

14 THE COURT: We will shorten it. Realistically, what
15 do you need? I'll give you what you need.

16 MR. KENDALL: I can work with whatever's good for the
17 Court. It just means a little more rushing.

18 THE COURT: Can we leave it we'll see how we're going
19 and we won't go after three for sure?

12:23 20 MR. KENDALL: I appreciate that. Thank you, your
21 Honor.

22 THE COURT: The previous day the Court has their
23 monthly meeting in the afternoon, so we may not have an
24 afternoon session on Tuesday. We'll go to 1 o'clock for sure.
25 Maybe we can go over to maybe about 1:30 on that day, but we

1 will not have an afternoon session on Tuesday, the second day
2 of trial.

3 MR. KENDALL: Great, your Honor.

4 THE COURT: Those 2 days we'll have abbreviated
5 afternoon sessions.

6 Anything else?

7 MR. KENDALL: No, your Honor.

8 THE COURT: All right. That's what I'm going to do,
9 give a short little blurb to the jurors and then we'll have
10 another session this afternoon outside the hearing of the jury.

11 *** End of sidebar ***

12 THE COURT: All right. I declare that we have a jury
13 indifferent. That means that you are the jury in this case.
14 I'm going to dismiss you shortly with a few instructions, and
15 also those of you in the back of the room who are still
16 reserved in this case. I'm going to ask you, and give you some
17 instructions, to remain reserved over the weekend. We don't
18 know what might happen between now and Monday morning. I'm not
19 going to swear in jury in. The case is not going to start
20 until Monday. There is an outside possibility we may need to
21 avail ourselves of your attendance. So those of you who are in
22 the back of the room and not been seated in the jury thus far
23 are instructed to remain available. I'm going to now give some
24 instructions to both the sitting jury and those who remain. I
25 want you to listen to it carefully. I'm going to sit down to

1 do that, if you don't mind.

2 Ladies and gentlemen, you have been chosen to be the
3 judges of the facts in this case. We will begin this trial
4 next Monday, that is on Monday, September 13th at 9:00 a.m. in
5 this courtroom, at which time I will instruct you on your duty
6 and conduct as jurors and the role of the judge, the jury, and
7 the lawyers.

8 Now, for the duration of this trial, we will start
9 each morning at about 9:00 a.m. We will start about 9:00 a.m.
10 We'll take a short morning recess, break for lunch at about
11 1 o'clock, reconvene at about 2 o'clock, and then proceed with
12 the trial until approximately 3:30 each day, not after 3:30.

13 On days on which you are deliberating to a verdict, we
14 will continue until about 5:00 p.m. As I said, the trial will
15 begin on Monday morning and will proceed day-to-day. I expect
16 it will be completed by Friday, October 8th, or at least during
17 the week of October 11th. In other words, it's going to be
18 done by the middle of October. I'm giving that an outside --
19 there's a possibility it may be before that. In any event,
12:27 20 it's going to be concluded by the middle of October.

21 Now, during the course of the trial, there are going
22 to be certain days that we will not have sessions.

23 I already know that next Tuesday afternoon, that's the
24 14th, I have prior business so we're only going to go until
25 about one or 1:30 on Tuesday.

1 Also, on Wednesday, in anticipation of the Jewish High
2 Holiday, which is Yom Kippur on Thursday, we're going to break
3 a little earlier than 3:00 p.m. Wednesday.

4 We will have no session on Thursday. That's the High
5 Jewish Holiday.

6 Then, on Thursday, September 30th, the Court has prior
7 judicial business that I must attend to, so we will not have a
8 session on Thursday, September 30th.

9 Now, this schedule may change as we go along. There
12:28 10 may be a day we don't need a full afternoon schedule, and I
11 will let you know about that.

12 You are now going to be excused for the weekend. I
13 will remind you that you are not to, under any circumstances,
14 discuss this case with anyone or conduct any independent
15 research. If you did so, it would be in violation of your oath
16 as jurors and it might even cause a mistrial at great expense
17 to the parties and the Court.

18 Then you may recall that yesterday I gave you a
19 written instruction. I'm going to read that again to put it in
12:28 20 your heads.

21 Please do not discuss this case with anyone, including
22 your family members, your co-workers, your friends, or your
23 fellow potential jurors. Please do not communicate with anyone
24 about this case using your cell phone, e-mail, smart phone,
25 text messaging, Twitter, blogs or websites, internet chat

1 rooms, or social networking websites, such as Facebook,
2 MySpace, LinkedIn or YouTube. As long as you are a potential
3 juror in this case, you are not to use any of these tools of
4 technology in connection with this case.

5 If you encounter the lawyers, witnesses or parties
6 involved in this case, please do not say anything to them.
7 Please do not read or listen to anything which in any way
8 relates to this case and do not try to do any independent
9 research or make any investigation about the case on your own.

12:29 10 The reason for all of this is that the case is going to be
11 decided based on the evidence that comes into this courtroom
12 and not on the basis of anything else that you may read or
13 anybody else's comments.

14 The first thing that's going to happen when you go
15 home and say I've been put on a jury or I'm potentially going
16 to be on the jury is somebody's going to say let me tell you
17 about a case that I heard about. They're going to be sincere
18 in that. There's nothing wrong with it. You use me as the
19 foil. Say there's this ornery judge in Boston that doesn't
12:30 20 want to let us talk about the case, and that's true. I will be
21 ornery if you do that because it does jeopardize the whole
22 concept of our judicial system. You are not to be influenced
23 by anything outside the evidence that will come before you in
24 this trial. That's going to happen in this courtroom and not
25 at home or talking to friends or looking at anybody on the

1 internet.

2 So please honor my instructions. I'm going to ask the
3 16 of you on Monday morning before we start the trial whether
4 you've been able to honor my instructions. I hope to have a
5 unanimous showing of 16 hands. If, in the unlikely event we
6 need to call upon any of those that are alternates at this
7 stage, I will be in touch with you. In fact, we will be in
8 touch with you on Monday to let you know that you are no longer
9 obligated to honor my instructions. Until Monday, until you're
10 notified, I ask those in the back of the room to honor those
11 instructions.

12 Mr. McAlear will show you where to go. My deputy is
13 going to show them the jury room right now. You're going to go
14 through this door. You'll see where you're going to be
15 assembling on Monday morning in the jury room. My deputy will
16 show you that.

17 Other than that, I wish you a pleasant weekend. You
18 can think about everything else except this case. Don't worry
19 about this case. Monday morning you'll go to work and that's
20 when you'll be concerned about the case. Have a pleasant
21 weekend. I'll see you Monday morning.

22 THE CLERK: All rise for the jury.

23 (Jury exits.)

24 THE COURT: We need to go over some matters but I'm
25 not prepared to have a final final pretrial conference until

1 2 o'clock. At 2 o'clock, I'll ask you to come back. Anything
2 we have then we'll go over the logistics of what we're going to
3 be doing on Monday morning and any other questions that counsel
4 have. I think we all need a break right now. I'll be back at
5 2 o'clock, unless there's something that can't wait until then.

6 MR. KELLY: It can wait.

7 THE COURT: We'll see you back here at 2 o'clock.

8 (Recess taken 12:33 to 2:02 p.m.)

9 THE COURT: Good afternoon, counsel. As we start, I
02:02 10 have issued an order ruling on all of the outstanding motions
11 with the exception of the motions that were filed by nonparties
12 yesterday. I've not dealt with them, nor do I intend to deal
13 with them immediately. I think they're not as time sensitive
14 as some of these others.

15 I don't expect to hear your reaction to the entry of
16 my order with perhaps the one exception being the motion for
17 sequestration, which is the last motion, No. 8, starting on
18 page 5. I think you've stipulated, at least somewhat, as to
19 who is going to be sequestered and who isn't. I'm not going to
02:03 20 sequester witnesses during the opening. To the extent that the
21 Wilson's are going to be in the courtroom at that time, I am
22 not going to allow counsel to, quote, introduce them. You can
23 refer to them during your opening if you want to, but I'm not
24 going to have you have them stand up or say anything. That is
25 is inappropriate.

1 MR. KENDALL: Your Honor, am I even allowed just to
2 point to them?

3 THE COURT: You can point to them.

4 MR. KENDALL: That's all I'll ask. I'm just going to
5 say this is my client John Wilson. That's his wife Leslie
6 Wright and their three children. That's it.

7 THE COURT: That's fine.

8 If they are going to be witnesses, they're going to be
9 sequestered after the opening.

02:04 10 MR. KENDALL: Understood.

11 THE COURT: The exceptions I've stated at the bottom
12 of five and going on to page 6. The government is allowed to
13 have a single designated agent that can be in the courtroom
14 even though he or she may testify, but not all three. If the
15 other two are going to testify, they can't be in the courtroom
16 until after they've testified.

17 MR. FRANK: So only one of them is on our witness
18 list. All three have been subpoenaed. That's the issue,
19 Judge.

02:04 20 THE COURT: In other words, the defendants are
21 intending to call them.

22 MR. KENDALL: Yes, your Honor. It's very likely,
23 particularly how we see how Singer plays out, whether he's
24 called or not. They've been subpoenaed in good faith. There's
25 a high likelihood we will call them, but it depends on what

1 comes out at trial.

2 THE COURT: That may be a difference. Why does the
3 government feel they need to have the three agents in the
4 courtroom during the entire trial?

5 MR. FRANK: We do not, your Honor. One of the agents
6 we've agreed should be sequestered until she testifies. She's
7 the agent on our witness list. The other two agents are
8 assisting us. They've been at witness prep sessions throughout
9 our preparation for the trial. They've been the case agents on
02:05 10 the case. I've never had a situation before where merely
11 because the defendant has subpoenaed the case agents, which is
12 pretty standard, that they are therefore excluded from the
13 proceedings. They're assisting us throughout.

14 THE COURT: My ruling is more aimed toward where the
15 government plans to offer the testimony of an agent and I have
16 not allowed them, especially not allowed them to sit at counsel
17 table until after. If it's just that they've been subpoenaed
18 by the defendants, I'm going to allow the agents to be in the
19 courtroom but not at counsel table.

02:06 20 MR. FRANK: Thank you, your Honor.

21 THE COURT: Is there anything else with respect to the
22 sequestration that needs to be dealt with?

23 MR. KENDALL: One small courtesy, your Honor. We've
24 worked out amongst ourselves how to deal with the 18 slots for
25 the three teams. We're going to be six, six, six. Only for

1 the openings we were wondering if we could have two of the
2 eight public seats for members of the Wilson family during the
3 opening, otherwise within the configuration there isn't enough
4 for the family. They'll be gone after the opening.

5 THE COURT: So two of the eight would be Wilson
6 family?

7 MR. KENDALL: In the Court allows, yes, your Honor.

8 THE COURT: Any objection to that?

9 MR. FRANK: Two of the eight will be present at
02:07 10 opening and they will be members of the Wilson family.

11 MR. KENDALL: Of the eight public seats, two of those
12 would be used by the Wilson family for opening only.

13 MR. FRANK: We don't have a position on that, Judge.

14 THE COURT: I will allow that.

15 MR. FRANK: Your Honor, if I could clarify. The third
16 agent may be present for openings but then has to be
17 sequestered.

18 THE COURT: Yes.

19 MR. FRANK: Thank you, your Honor.

02:07 20 THE COURT: How we handle the public seating of the
21 eight during the course of the trial is something I don't want
22 to get into the details of. Either my deputy or somebody in
23 the Clerk's Office will be handling that.

24 MR. FRANK: Your Honor, for witnesses who have
25 attorneys representing them while they testify, may those

1 attorneys be in the courtroom?

2 THE COURT: I would think that would be an exception
3 that should be allowed.

4 We need to turn to the openings just to remind
5 counsel. As I understand it, the government will have up to
6 45 minutes. The defendants will have up to 30 minutes. Who
7 will be starting?

8 MR. KELLY: Your Honor, if I could ask the Court this:
9 Initially, the defense was given 90 minutes because there was
02:08 10 three of us left. Third one is gone. We're not asking for the
11 full 30 minutes. I'd respectfully ask for five more minutes so
12 I don't violate the 30-minute deadline. 35 minutes, maybe
13 won't use it. I don't want to go blind. I'm asking for
14 35 minutes for myself, Mr. Kendall. That would be 70 instead
15 of the original 90, so we'd save 20 minutes.

16 THE COURT: Does the government have any position?

17 MR. FRANK: Government has no position on that, Judge.

18 THE COURT: All right. 35.

19 MR. KELLY: Thank you, your Honor.

02:08 20 THE COURT: Each of the defendants.

21 MR. KENDALL: Thank you, your Honor.

22 MR. FRANK: As a logistical matter, Judge, we expect
23 to have a Power Point for opening. I believe this monitor we
24 discussed with the deputy could be here.

25 THE COURT: It could be. The deputy will show you

1 how. Understand again about my pet peeve of not wandering
2 during openings. That doesn't mean you can't go retrieve a
3 document if you need to. I don't like you wandering back and
4 forth. You can't approach the jury box within 10 feet.
5 There's an added reason for that with the COVID. I've never
6 allowed counsel to approach closer than 10 feet. If you want
7 to use this portable lectern here, that's fine. Don't go
8 closer than 10 feet to the box and don't wander around while
9 making your opening. If you have to go point something out,
02:10 10 that's okay. The process of wandering back and forth is what
11 bothers me.

12 MR. FRANK: Yes, your Honor. So we may point to
13 something on the Power Point?

14 THE COURT: Yes.

15 MR. FRANK: Thank you, your Honor.

16 THE COURT: Who is going to be going first -- the
17 government opens. Who goes first for the defense? It will be
18 you, Mr. Kelly?

19 MR. KELLY: Yes.

02:10 20 THE COURT: Then Mr. Kendall to follow.

21 MR. KENDALL: Yes, your Honor.

22 THE COURT: Again, I caution counsel that this is not
23 a second closing argument that you're making at opening. If
24 you can't say I expect the evidence to show before everything
25 that you say, you shouldn't be saying it. That's what I'm

1 going to tell the jury in my opening instructions, that
2 openings are not arguments. You will be violating what I've
3 said if you go beyond that. All right? Everybody understand
4 that?

5 MR. KELLY: Yes, your Honor.

6 THE COURT: Monday we will get through the openings
7 and, therefore, the government's case will start. Who will be
8 the witnesses for the government on Monday and Tuesday?

9 MR. FRANK: Your Honor, I expect our first witness
02:11 10 will be Bruce Isackson.

11 THE COURT: He is who?

12 MR. FRANK: He's a cooperating witness. He's one of
13 the parent participants in the scheme.

14 THE COURT: How long approximately will his direct
15 exam be?

16 MR. FRANK: Between two and 3 hours. Could be about
17 3 hours.

18 THE COURT: Approximate cross?

19 MR. KELLY: We're just getting the notice. I'm not
02:11 20 faulting them. This is the time. We have to determine how
21 much cross is needed for him. I can't imagine it would be more
22 than the direct.

23 THE COURT: But it may be as much as two or 3 hours?

24 MR. KELLY: Doubtful.

25 THE COURT: That is likely to be the witness that will

1 complete Monday.

2 MR. KELLY: Yes.

3 THE COURT: If we get beyond that, who will be the
4 government's next witness on Tuesday?

5 MR. FRANK: It is likely to be Special Agent Keith
6 Brown. It is possible that we would call Davina Isackson,
7 Mr. Isackson's wife.

8 THE COURT: Keith Brown, how long would his direct be
9 approximately?

02:12 10 MR. FRANK: His direct is also in the two to 3-hour
11 range. Miss Isackson, if she were to testify, her direct is in
12 the 90-minute range.

13 MR. KELLY: I would only say this, you're supposed to
14 tell us the witnesses, not potential.

15 MR. FRANK: It is likely we will go to Special Agent
16 Brown but we're now on Friday talking about Tuesday. I
17 understood the instruction previously to be that we were to
18 tell you on Friday who is coming on Monday.

19 THE COURT: Let's not have an argument here. I
02:13 20 understand if the government feels the testimony of
21 Mr. Isackson isn't complete that they may need Mrs. Isackson.
22 I can't imagine why you would need 90 minutes when you've had
23 two to 3 hours for. I understand the reasons for that. We
24 accept the conditional statement you may or may not call her
25 in. Mr. Brown will be the next witness after the Isackson's?

1 MR. FRANK: Yes, your Honor.

2 THE COURT: His direct will be two to 3 hours?

3 MR. FRANK: Yes, your Honor.

4 THE COURT: That looks like it takes us well into the
5 second day, if not through the second day.

6 MR. FRANK: Yes, your Honor. I should note it is not
7 our present intention to call Mr. Singer to testify. He
8 remains on our list in case we change our mind, but that is not
9 our present intention.

02:14 10 MR. KELLY: And we reserve our right to call him, your
11 Honor.

12 THE COURT: Of course.

13 MR. KENDALL: I didn't hear what Mr. Frank said, your
14 Honor.

15 THE COURT: He said it is the intention right now of
16 the government not to call Mr. Singer.

17 MR. KENDALL: That's their intention.

18 THE COURT: That's their intention, present intention
19 without prejudice to changing their mind, which, of course, you
02:14 20 have a right to do too.

21 MR. KENDALL: May I ask one thing, your Honor?

22 MR. KENDALL: Of course.

23 MR. KENDALL: With respect to Keith Brown, we don't
24 know what he's going to testify to at all. We don't see his
25 name showing up on any 1023 reports. I don't believe he was

1 part of an investigation that we've appreciated. We don't know
2 if he's a summary witness, if he's going to put in tapes.
3 Could the government tell us the general topic of Mr. Brown's
4 testimony?

5 THE COURT: Mr. Frank?

6 MR. KENDALL: I may have missed something.

7 MR. FRANK: His name does appear on several 1023
8 reports. He's going to provide a brief background of the
9 investigation and principally is there to introduce e-mails and
02:15 10 phone calls.

11 MR. KENDALL: Thank you.

12 MR. TOMBACK: One last thing. I'm Andy Tomback. I
13 thought that the sequence was Isackson, Brown, Isackson?

14 MR. FRANK: It would be Isackson, possibly Isackson,
15 brown.

16 MR. TOMBACK: Thank you.

17 THE COURT: Is there anything else that needs to come
18 to the Court's attention before we adjourn for the weekend?

19 MR. FRANK: Your Honor, we weren't clear based on your
02:15 20 Honor's comments to the jury. Is October 1st still a day when
21 the Court is planning?

22 THE COURT: The MDL has decided to go remote, so I
23 will be working all day Thursday on MDL stuff, but I won't be
24 out of town on Friday. We will have a session on October 1st,
25 Friday, October 1st.

1 MR. FRANK: Thank you, your Honor.

2 THE COURT: I should have mentioned that to you. I'm
3 sorry I didn't. Things seem to be getting cancelled rather
4 than scheduled more frequently.

5 Anything else from the defendants' side?

6 MR. KELLY: For defendant Aziz, nothing further, your
7 Honor.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: One second to check my notes.

02:16 10 THE COURT: You may do so. This is likely to be the
11 lineup on the tables as we go forward? Is that fair to say?

12 MR. KELLY: Yes, your Honor. Just logistically, we
13 confirmed with the government, they're fine having their
14 paralegal here and IT people here and we're going to sit there
15 as defendants.

16 THE COURT: In other words, the government's going to
17 have the front left table here.

18 MR. KELLY: That one, one-third of this, and the video
19 people and tape people are sitting here. Then the defendants
02:17 20 are in this back row.

21 THE COURT: I see. Mr. Kelly, you'll be on that
22 table.

23 MR. KELLY: I will.

24 THE COURT: With your other co-counsel.

25 MR. KELLY: Yes. This group here.

1 THE COURT: And Mr. Kendall will be where he is.

2 MR. KENDALL: We'll tuck Mr. Wilson over here.

3 THE COURT: So it will be four per table basically.

4 MR. KELLY: Quick math check, yes, your Honor.

5 MR. KENDALL: Nothing further in my notes.

6 THE COURT: Thank you, counsel. We will go forward
7 with the trial starting at 9:00 a.m. on Monday morning. Have a
8 good weekend.

9 (Whereupon, the proceedings concluded at 2:18 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)

I, Kristin M. Kelley, certify that the foregoing is a
correct transcript from the record of proceedings taken
September 10, 2021 in the above-entitled matter to the best of
my skill and ability.

/s/ Kristin M. Kelley

November 2, 2021

Kristin M. Kelley, RPR, CRR
Official Court Reporter

Date